

actual bona fide user of the land to be repurchased by said owner under this Act, and still further provided, that the person seeking to repurchase any land under this Act, shall if required by the Commissioner of the General Land Office, make affidavit that he is a bona fide user of the land which is sought to be repurchased under this Act, and such land was bought for the personal use of the purchaser and is being so used; and furnish satisfactory proof to the Commissioner of the General Land Office that the facts set forth in said affidavit are true, if such proof be demanded by said Commissioner.

Sec. 8. The fact that on account of several consecutive years of drouth in that part of the State in which most of the public lands are situated and a great number of the purchasers have been and are unable to pay the interest due and to become due on said lands, and said lands therefore are now, or soon will be, subject to forfeiture for the non-payment of interest, and said forfeiture would work a great loss to the available school fund, creates an emergency and an imperative public necessity exists that the constitutional rule be suspended, requiring bills to be read on three several days, shall be suspended, and that this bill be placed upon its third reading and final passage, and take effect from and after its passage.

#### Engrossing Committee Reports.

Committee Room,  
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.  
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 10 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,  
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.  
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 13 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,  
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.  
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 11 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,  
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.  
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 7 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,  
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President Pro Tem.  
of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 16 carefully compared and find the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,  
Austin, Texas, Sept. 13, 1917.

Hon. W. L. Dean, President of the  
Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 9 carefully compared and find the same correctly engrossed.

ALDERDICE,  
Chairman.

#### ELEVENTH DAY.

Senate Chamber,  
Austin, Texas,  
Friday, Sept. 14, 1917.

The Senate met at 9:15 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Dean.
Bailey.	Decherd.
Bee.	Floyd.
Buchanan of Bell.	Gibson.
Buchanan of Scurry.	Hall.
Caldwell.	Harley.
Clark.	Henderson.
Collins.	Hopkins.
Dayton.	Hudspeth.

Johnson of Hall. Robbins.  
 Johnston of Harris. Smith.  
 Lattimore. Strickland.  
 McCollum. Suiter.  
 McNealus. Westbrook.  
 Page. Woodward.  
 Parr.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

#### Petitions and Memorials.

There were none today.

#### Committee Reports.

See Appendix.

#### Bills and Resolutions.

By Senators Caldwell and Hudspeth:

S. B. No. 23, A bill to be entitled "An Act to amend Section 1 of Chapter 123, page 320 of the General Laws of the State of Texas, as passed by the Thirty-fifth Legislature at its regular session so as to provide that said Act shall not apply to any act permitted by the statutes of the United States of America, or by the United States army and navy regulations nor be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, articles of jewelry, or stationery for use in correspondence, on any of which shall be printed, painted or placed said flag or flags, disconnected from any advertisement, and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator Caldwell:

S. B. No. 24, A bill to be entitled "An Act making an appropriation out of the general revenue for additional support of the Game, Fish and Oyster Department for the fiscal years ending August 31, 1918, and August 31, 1919, and declaring an emergency."

Read first time and referred to Committee on Finance.

Morning call concluded.

#### Senate Bill No. 12—Indefinitely Postponed.

Senator Hudspeth called up Senate Bill No. 12, reorganizing the Seventieth Judicial District of the State of Texas, and moved that the bill be indefinitely postponed for the reason that the House bill on the same subject has been passed.

The motion prevailed.

#### Senate Bill No. 22.

The Chair laid before the Senate on second reading:

S. B. No. 22, A bill to be entitled "An Act to provide that the owners of public free school land purchased from the State of Texas after January 1, 1907, and prior to January 1, 1917, on condition of settlement and residence which land may hereafter be forfeited for non-payment of interest as now prescribed by law provided said forfeiture was caused by reason of interest accrued or accruing prior to taking effect of this Act, shall have the right to repurchase not to exceed a complement of eight sections of said lands and leaving any lien or valid contractual right existing in and to the land so repurchased unimpaired; providing for the creation of a commission to revalue such land as may be desired to be repurchased under this Act; and provided that this Act become effective only as to those who are bona fide users of the land sought to be repurchased, and providing for an affidavit to be made by persons repurchasing, if demanded, and declaring an emergency."

The committee report that the bill be printed in the Journal only was adopted.

Senator Buchanan of Scurry moved that the bill be laid on the table subject to call.

The motion prevailed.

#### House Bill No. 11.

The Chair laid before the Senate on second reading:

H. B. No. 11, A bill to be entitled

"An Act to amend Section 37, Chapter 17 of the General and Special Laws of the State of Texas, passed at the Thirty-third Legislature at its First Called Session, being 'An Act creating the San Patricio County road system, so as to require the tax assessor to make up the tax rolls of said county by defined road districts, instead of by justice precincts, by adding a new section to be designated as Section 37a; fixing a compensation of the tax assessor, and declaring an emergency.'"

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to its third reading.

On motion of Senator Parr, the constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 11 put on its third reading and final passage by the following vote:

Yeas—22.

Alderdice.	Hopkins.
Buchanan of Bell.	Hudspeth.
Buchanan of Scurry.	Johnson of Hall.
Clark.	Johnston of Harris.
Collins.	Lattimore.
Dayton.	McNealus.
Dean.	Page.
Decherd.	Parr.
Gibson.	Smith.
Harley.	Strickland.
Henderson.	Westbrook.

Absent.

Bailey.	McCollum.
Bee.	Robbins.
Caldwell.	Suiter.
Floyd.	Woodward.
Hall.	

The bill was laid before the Senate, read third time and, on motion of Senator Parr, was passed by the following vote:

Yeas—22.

Alderdice.	Hopkins.
Buchanan of Bell.	Hudspeth.
Buchanan of Scurry.	Johnson of Hall.
Clark.	Johnston of Harris.
Collins.	Lattimore.
Dayton.	McNealus.
Dean.	Page.
Decherd.	Parr.
Floyd.	Smith.
Gibson.	Strickland.
Henderson.	Westbrook.

Absent.

Bailey.	McCollum.
Bee.	Robbins.
Caldwell.	Suiter.
Hall.	Woodward.
Harley.	

#### Messages from the House.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 16, A bill to be entitled "An Act authorizing the commissioners' court of Dallas County, Texas, to provide a building in the city of Dallas at or near the court house in said county, and to establish therein a woman's rest room or rest rooms of sufficient dimensions for the comfort and convenience of the women and children from the rural districts who are called upon to attend court, or to visit the county site; and appropriate sufficient money out of the general fund of said county to properly maintain said rest room or rest rooms, and to pay the salaries of the matron and janitor, and to provide water, lights and heat for said building."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 19, A bill to be entitled "An Act authorizing the commissioners court of Dallas county, Texas, to provide a building in the city of Dallas at or near the courthouse in said county, and to establish therein a woman's rest room or rest rooms of sufficient dimensions for the comfort and convenience of the women and children of the rural districts who are called upon to attend court or to

visit the county site; and appropriate sufficient money out of the general fund of said county to properly maintain said rest room or rest rooms, and to pay the salaries of the matron and janitor, and to provide water, lights and heat for said building, and and declaring an emergency."

H. B. No. 17, A bill to be entitled "An Act creating and establishing the Anahuac Independent School District in Chambers County, Texas; defining its boundaries; providing for a board of trustees to manage and control the public free schools within said district; investing the said district with the rights, powers, privileges and duties of a town or village incorporated under the general laws for free school purposes only; providing for the assumption and refunding by the Anahuac Independent School District as herein defined of the bonded indebtedness of the existing Anahuac Common School District No. 3 of Chambers County, Texas; and validating those obligations; repealing all laws in so far as they conflict herewith, and declaring an emergency."

H. B. No. 16, A bill to be entitled "An Act to amend Sections Nos. 2 and 14 of the Special Road Laws of Coleman County, Texas, approved April 15, 1905, being House Bill No. 542, as amended by an Act, being House Bill No. 688, of the Special Laws of Texas, and as amended by an Act, being House Bill No. 52, of the Special Laws of Texas, approved June 4, 1915, which House Bill No. 542 is entitled 'An Act to amend Sections 2, 4, 6, 7, 9, 12 and 14 of the Special Laws of Texas, approved April 15, 1905, being House Bill No. 542, entitled An Act to create a more efficient road system for Coleman County, Texas; and making the county commissioners of said county ex officio road commissioners, and prescribing their duties as such, and providing for the appointment of road overseers, and defining their duties and for the working of county convicts upon the public roads of said county, and providing for officers' fees and rewards for escaped convicts, and authorizing the working of county convicts partly upon the county convict farm as well as upon the public roads, and partly upon both, in the discretion of the commissioners' court, and making provisions applicable as far

as practicable to convicts when worked upon county farms; and to provide for the summoning of teams for road work and for an allowance of time of road service for same; and fixing a penalty for a violation of this Act; and to repeal all laws in conflict with this Act as to Coleman County; providing for the condemnation of land needed for widening, straightening, changing or draining roads; providing for the taking of timber, gravel, earth, stone or other necessary material for the improvement of roads, and giving persons summoned to work upon the roads the right to be relieved from the discharge of such duty on the payment of specific sums of money herein stipulated; providing for the collection of such sums of money by road overseers; and prescribing the penalties for failure to comply with the provisions of this Act.' and declaring an emergency."

Respectfully,

BOB BARKER,  
Chief Clerk, House of Representatives.

#### Bills Read and Referred.

The Chair, President Pro Tem. Dean, had referred after their captions had been read, the following House bills:

H. B. No. 19, referred to the Committee on Labor.

H. B. No. 17, referred to the Committee on Educational Affairs.

H. B. No. 16, referred to the Committee on Roads, Bridges and Ferries.

#### Executive Session.

The Chair, President Pro Tem. Dean, here announced that the hour heretofore designated by the Senate for executive session had arrived, and directed the Sergeant-at-Arms to clear the Chamber of all persons not entitled to remain, which was accordingly done and the Senate proceeded to executive session.

The Secretary reported to the Journal Clerk that the following confirmations were made:

Mr. W. W. Turney of El Paso to be a member of the Texas State Council of Defense.

Mr. T. J. Rowzee of Austin, to be a member of the Board of Managers of the State Lunatic Asylum.

**In the Senate.**

(President Pro Tem. Dean in the Chair.)

**Senate Bill No. 17—Re-referred.**

By unanimous consent and on request of Senator Johnston of Harris, Senate Bill No. 17 was withdrawn from the Committee on Towns and City Corporations and was referred to the Committee on Civil Jurisprudence.

**Free Conference Committee on Senate Bill No. 8—Changed.**

By unanimous consent and on request of Senator McNealus his name was taken from the Free Conference Committee on Senate Bill No. 8, and Senator Harley named in his place.

**Messages from the Governor.**

Here Mr. S. Raymond Brooks appeared at the bar of the Senate with several messages from the Governor.

The Chair directed the secretary to read the messages, which were as follows:

Governor's Office,  
Austin, Texas, Sept. 13, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body the following subjects:

1. Enactment of a law to create a more efficient road system for Trinity County, Texas, and providing for the appointment of road overseers, and the creation of the authority of the county road superintendents and to define its duties; repealing Chapter 146, passed by the Thirty-fifth Legislature in Regular Session creating a special road law for Trinity County.

2. Enactment of a law authorizing the commissioners' court of San Patricio County, Texas, to order an election to determine whether or not the office of county superintendent of schools shall be abolished and the duties of same conferred on the county judge of said county.

Respectfully submitted,  
W. P. HOBBY,  
Acting Governor of Texas.

Governor's Office,

Austin, Texas, Sept. 13, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I beg to submit for the consideration of your honorable body the following subjects:

1. Enactment of a law for the protection of wild turkeys, squirrels and fur bearing animals in the counties of Angelina, Cherokee, Hardin, Liberty, Nacogdoches and Tyler.

2. Enactment of a law creating the Ben Wheeler Independent School District in Van Zandt County, Texas.

3. Enactment of an amendment to Article 925, Chapter 6, Title 22, Revised Civil Statutes of Texas, 1911, providing for the levy and collection of an ad valorem tax by a city or town sufficient to meet interest payments and to create a sinking fund on all indebtedness incurred prior to the adoption of the constitutional amendment in 1883.

4. Enactment of a law making an appropriation for the additional support of the Game, Fish and Oyster Department for the fiscal years ending August 31, 1918, and August 31, 1919.

5. Enactment of an amendment to Section 1 of Chapter 123, page 320 of the General Laws of the State of Texas, as passed by the Thirty-fifth Legislature at its Regular Session, so as to provide that said Act shall not apply to any Act permitted by the statutes of the United States of America, or by the United States Army and Navy regulations, nor to be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, article of jewelry or stationery for use in correspondence, on any of which shall be printed, painted, or placed said flag or flags, disconnected from any advertisement.

Respectfully submitted,

W. P. HOBBY,  
Acting Governor of Texas.

**Refusal to Postpone Court.**

At 10 o'clock a. m. Senator Clark moved to extend the morning legislative session for fifteen minutes by postponing the convening of the Court for that length of time.

The motion was lost.

## The Senate as Court of Impeachment.

## PROCEEDINGS.

Friday, September 14, 1917.

Morning Session.

Senate Chamber, Austin, Texas.

(Pursuant to adjournment, the Senate, sitting as a High Court of Impeachment, reconvened at 10:00 o'clock a. m.)

Honorable W. L. Dean, President Pro Tempore, Presiding.

The Board of Managers and their counsel were present. The Respondent and his counsel were present.

The Chair: The hour having arrived for the convening of the Court of Impeachment, the Sergeant-at-Arms will see that the Chamber is cleared of those not entitled to participate and be present, and proclaim the convening of the Court.

Sergeant-at-Arms (At the door of the Senate): Oyez! Oyez! Oyez! the Senate sitting as a High Court of Impeachment is now in session.

The Chair: Now, let all the members of the Court, and all those in the Chamber and in the galleries remember that we want good order.

Senator McNealus: Mr. President. The Chair: The Senator from Dallas.

Senator McNealus: I would just like to ask for information, if the Managers for the House are expected to be here during this trial (referring to the fact that they were not yet present).

The Chair: They have permission to be here if they desire to be.

Senator McNealus: I didn't know but it was a matter of courtesy to go on with the legislative session a little while.

(At that moment the Managers for the House took their seats.)

The Chair: Proceed, gentlemen.

Thereupon, Respondent's witness,

J. H. DAVIS, JR., ESQ.,

resumed the witness stand and in answer to questions propounded, further testified as follows, to wit:

Direct Examination (Resumed)  
By Mr. Hanger.

Q. Mr. Davis, you spoke yesterday afternoon about this Adjutant General's fund and these other items. When the Legislature convened in

1917, in Regular Session, was anything done in reference to those items?

A. Yes, sir. The Governor sent a message to the Legislature containing the exact condition of those various accounts.

General Crane: One moment, please. We would prefer that message.

Mr. Hanger: Why, we are going to introduce it as soon as we can prove it.

General Crane: All right.

The Chair: Go ahead.

General Crane: Well, with that understanding, I will not object.

Q. Mr. Davis, who prepared the statement of those accounts?

A. I did.

Q. What is this book that I hand you (handing book to witness)?

Mr. Hanger: This is by the courtesy of the Journal Clerk of the Senate, Mr. Chairman, and I shall have to read from it, so as to return it to him, it is his official copy.

A. It seems to be the Senate Journal.

Q. And what page is it?

A. Page 73.

Q. Now, what is that on pages 73, 74, 75, 76, 77 and 78 of the Senate Journal, at the Regular Session of 1917?

A. This is a copy of the Governor's message, under date of January 17, 1917.

Q. What is the—what is the typewritten document that I now submit to you, consisting of—let me count the pages—eleven typewritten pages—practically eleven?

A. The first nine are copies of the pages which were attached to the Governor's message delivered on January 17, 1917.

Q. Is that the original of the printed document, and pages, just exhibited to you?

A. It is a duplicate copy, yes, sir.

Q. Well, I mean, this was printed? Who prepared that statement which you have in your hand?

A. It is a copy of the original which was introduced in the Legislature.

Q. Yes. Who prepared that statement that you have there with you?

A. I did.

Q. Now, on page 77, under the head of "Texas National Guard,"

you have, it appears, March 4, 1915. See if that is the same in your copy?

A. That is true.

Q. Ought that to be 1915 or 1916?

A. 1916.

Q. That was a mistake, then?

A. Typographical error, yes, sir.

Mr. Hanger: We now introduce as a part of this witness' testimony, Mr. President, the following statement out of the Governor's message to the Legislature, submitted, I believe, on January 17, 1917, and which appears on pages—begins on page 76 of the Senate Journal:

"e. Canyon City Normal Insurance fund"—

These being itemized statements of the reports required of the Governor to be given to the Legislature of the funds collected.

"e. Canyon City Normal Insurance fund:

"Certificates of deposit and balances in bank received January 19, 1915, from Governor O. B. Colquitt, as follows:

"First National Bank, Canyon City, \$10,000.

"Interest collect on same, \$66.67.

"Texas Trust Company, Austin, \$10,000.

"First State Bank, Canyon City, \$5000.

"Interest collected on same, \$81.11

"First National Bank of Plainview, \$25,000.

"Interest collected on same, \$607.70.

"First National Bank, Amarillo, \$45,839.48.

"Interest collected on same, \$166.40.

"Deficiency warrants cashed by Governor Colquitt, \$4846.45.

"Total, \$101,607.18.

"Disbursements.

"January 23, paid to George Endress, Architect, \$1000.

"May 5, 1915, to J. M. Edwards, State Treasurer, \$6000.

"June 10, to J. M. Edwards, State Treasurer, \$10,000.

"July 7, to J. M. Edwards, State Treasurer, \$10,000.

"August 7, to J. M. Edwards, State Treasurer, \$13,507.35.

"August 2, to J. M. Edwards, State Treasurer, \$10,000.

"November 3, to J. M. Edwards, State Treasurer, \$5000.

"December 1, to J. M. Edwards, State Treasurer, \$6156.

"1916.

"January 6, to J. M. Edwards, State Treasurer, \$8000.

"February 2, to J. M. Edwards, State Treasurer, \$6200."

Mr. Hanger: That item before that should have been \$8000. Did I say \$6000?

Stenographer: You said \$8000.

"March 4, to J. M. Edwards, State Treasurer, \$4000.

"April 26, to J. M. Edwards, State Treasurer, \$21,743.83.

"Total, \$101,607.18.

"f. Galveston Storm Sufferers.

"Received from appeal to the people of Texas, through the public press, \$2949.40.

"Received from National Red Cross Society, \$1000."

There are two items, one of \$2949.40 and \$1000, making \$3949.40.

Mr. Hanger: On the same page are one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen items, I think it is, aggregating \$3949.40, being disbursements as to that fund. That is "f."

"e. Texas National Guard.

"March 4, 1915—received draft of Hirsch & Sons, of St. Louis, being amount recovered on stolen property of Texas National Guard, sold to said Hirsch & Sons, \$3050.

"July 14, 1916—refund on bond of J. R. Sims, from American Indemnity Company, \$223.58.

"Total, \$3273.58."

"Disbursements:

"George M. Bowie, for rent on building used as armory at Weatherford, not paid for by J. R. Sims, \$157.54.

"Balance on hand January 16, for account of Texas National Guard, \$3116.04.

"h. Location of King's Highway: 1915.

"December 20, Received from Mrs. Lipscomb Norvell, Beaumont, Texas, \$2000.

"No disbursements.

"Balance on hand January 16, 1916, \$2000."

Mr. Hanger: (To witness): Ought that to be 1916 or 1917?

The witness: 1917.

Mr. Hanger: January 16, 1917. If there is no objection to that, we will read that 1917, because manifestly it ought to be that.

General Crane: Well, we have no objection.

Mr. Hanger: Of \$2000. Then, the other item is the Good Road Fund. Under the heading of "I" showing the receipt of four items from D. E. Colp, Secretary of the Good Roads, aggregating \$322.07. Under the head of "Disbursements" are seven checks to George D. Marshall, aggregating the same amount, \$322.07.

This was in the message, if it has not been stated, of January 17, 1917.

Q. (Resuming examination): Mr. Davis, this amount of \$21,743.58, the last check on the Canyon City Normal fund, how was that arrived at—found to be?

A. By taking the entire amount which the Governor had received and deducting therefrom the checks which he had issued to the Treasurer and Mr. Endress.

Q. Now, when that check was presented, was it paid?

A. Yes, sir.

Q. The check will show. I believe that was on the American National Bank—was it?

A. That is true, yes, sir.

Q. Yes, sir. Were all these checks paid when presented?

A. None of them were ever returned unpaid, no, sir.

Q. What are these two papers I am handing you here?

A. They are deposit warrants from the Comptroller's office, both dated August 29, 1915, were for the amount of \$10,000—or \$1,083.47.

The Chair: A little louder, Mr. Davis, please.

Q. A little louder.

A. For the amount of \$1,083.47, the number being 3526; the other being for the amount of \$1,320.08, and its number being 3525.

Q. Well, now, what are they?

A. They are warrants or receipts for money deposited by Governor Ferguson in the State Treasury, covering items which have been complained about, out of the appropriations for fuel, water, lights and incidentals.

Q. Commonly called "the chicken salad" item?

A. Yes, sir.

Q. Now, what is this that I am handing you (another page)?

General Crane: One moment. Mr. Bledsoe thinks he read this 1915, evidently intending, I should think, 1917.

Mr. Hanger: Should have been 1917?

A. Should have been 1917.

Mr. Hanger: Mr. Henry says he did read it 1915. Change that to 1917, Mr. Stenographer.

A. This is a list of the amounts obtained from the Comptroller's Department by me, and which were construed to be those items complained about.

Q. Now, who prepared that list?

A. I did.

Q. From what?

A. From the original vouchers in the Comptroller's office.

Q. What is the long strip of paper with the figures on it, apparently made by an adding machine?

A. That is a list of these items added together.

Q. What is the total of them?

A. \$2,403.55.

Q. What was the purpose in having two of these.

A. One was sent to the Treasurer in a letter, and the other was retained for the Governor's file. Oh, you mean, two of those warrants?

Q. Yes.

A. They covered a period of two years.

Q. Yes?

A. And the appropriation numbers were different.

Q. Yes, of course. I just wanted to make that clear—that that was the reason there had to be two receipts there. Now, what is the paper here dated August 25, 1917?

A. A copy of a letter from Governor Ferguson to Honorable J. M. Edwards, State Treasurer.

Q. Was that delivered by the Governor to the Treasurer?

A. Yes, by me.

Q. By you?

A. Yes, sir.

Q. The original signed by the Governor?

A. Yes, sir.

Mr. Hanger: We offer the statement, the letter and figures.

General Crane (after examining papers): All right.

(Mr. Hanger thereupon read into the record the following letter to wit):

"August 25, 1917.

"Honorable J. M. Edwards,

"State Treasurer,

"Austin, Texas.

"Dear Sir: Herewith you will find my check for \$2,403.55 to cover

repayment to the State of items checked on the attached list of expenditures at the Governor's Mansion from September 1, 1915, to the present time. I have heretofore taken up all deficiency warrants of which I have had knowledge and which have been presented to me; and this is to cover the amounts which were expended under the appropriation made by the Legislature.

"Since the investigation began in the House of Representatives on August 6, 1917, I have become acquainted with the fact that it was demanded that I refund to the State moneys expended by me and authorized by a solemn Act of the Legislature. While on the stand as a witness in the investigation, above mentioned, I stated that if the House would indicate by a majority vote that it was its desire that I be called upon to refund to the State such moneys, even though the Legislature had made appropriation and authorized me to expend the same and even though such Act has never been repealed, that I would refund and pay back all of such funds. Since the giving of that testimony by me, the House of Representatives has voted to sustain an Article of Impeachment of me, based upon the failure to refund and repay to the State such items and amounts of money. I take this as a compliance with my condition prescribed by me in my testimony that the Legislature indicates its wish and desire that I refund such sums of money, and I am, therefore, in compliance with my testimony there given, and the expressed intention there made, handing you herewith my check to cover the full amount of such appropriations expended by me as Governor under the provisions of said appropriation bill.

"It may be that there are yet some outstanding deficiency warrants which have not been brought to my attention, and if so, I shall be thankful for the presentation of

same by anyone holding the same, and shall likewise be thankful and grateful for information from anyone of the existence of such deficiency warrants in the hands of anyone, as it is my intention to literally and scrupulously comply with my duty to my State, to myself and the testimony given by me in the investigation.

"Yours truly,

"d-enc."

Q. Did a check accompany that letter?

A. Yes, sir.

Q. For the amount stated?

A. As stated in the letter, yes, sir.

Q. \$2,403.55?

A. Yes, sir.

Q. You delivered the check along with the letter?

A. Yes, sir.

Mr. Hanger: We offer the whole document—figures, letter and everything.

(Accompanying the letter above offered in evidence was an adding machine slip with the following figures on it, viz.):

\$14.45,	24.25,	\$57.90,	\$11.70,
\$15.55,	\$2.65,	\$27.30,	\$25.00,
\$49.50,	\$59.75,	\$24.00,	\$5.50,
\$10.45,	\$2.25,	\$3.50,	\$9.75,
\$38.00,	\$9.00,	\$14.00,	\$49.85,
\$102.50,	\$24.75,	\$105.30,	\$12.85,
\$23.40,	\$12.01,	\$22.10,	\$18.80,
\$42.45,	\$24.20,	\$66.60,	\$55.82,
\$23.00,	\$5.30,	\$105.60,	\$50.00,
\$5.70,	\$9.85,	\$3.00,	\$10.15,
\$69.70,	\$32.75,	\$3.50,	\$2.10,
\$5.00,	\$20.75,	\$35.55,	\$4.50,
\$29.55,	\$142.25,	\$23.45,	\$43.85,
\$30.20,	\$5.80,	\$3.60,	\$96.50,
\$29.85,	\$11.40,	\$38.75,	\$4.10,
\$35.55,	\$24.40,	\$128.10,	\$25.40,
\$50.62,	\$5.05,	\$27.00,	\$17.25,
\$135.25;	\$2,455.55,*	\$52.00	Total,
			\$2,403.55.

(Another document offered in evidence by counsel for Respondent, in connection with the letter, as above set out, is in words and figures as follows, to wit:)

## APPROPRIATION X16. MANSION AND GROUNDS.

Fuel, Light, Water, etc.

Date.	Name.	No. Warrant.	Amount.	Class of Goods.
1915.				
Sept.				
16	Q. M. Crockett.....	1245	\$ 14.45	Vegetables.
17	S. W. Tel. and Tel. Co.....	1414	4.00	Phone rent.
Oct.				
6	Q. M. Crockett.....	3685	24.25	Vegetables.
6	Hill & Hill.....	3694	57.90	Groceries.
8	Otting Bakery.....	4153	11.70	Breadstuffs.
8	Kallgren & Lindahl.....	4159	15.55	Feed.
8	Lone Star Ice Co.....	4160	14.00	Ice.
8	W. T. Wroe & Sons.....	4161	2.65	Auto supplies.
8	L. E. Baggett.....	4162	27.30	Butter and eggs.
9	Austin Gas Light Co.....	4163	.75	Connection.
9	Austin Gas Light Co.....	4164	20.80	Gas fuel.
Dec.				
8	Austin City.....	15189	18.51	Water and light.
10	Herman Schieffer.....	15478	25.00	Meat.
10	Q. M. Crockett.....	15479	49.50	Vegetables.
10	Tom D. Smith.....	15480	59.75	Groceries.
10	C. Boatman.....	15481	24.00	Milk tickets.
10	Mrs. M. Thompson.....	15482	5.50	Groceries.
10	Lone Star Ice Co.....	15483	7.00	Ice.
10	Troy Laundry.....	15484	10.45	Laundry.
10	United Tel Co.....	15485	6.00	Phone rent.
10	Swann Fur. and Carpet Co..	15486	9.50	Shades and mattress.
10	The Stelfox Co.....	15487	2.25	Repairs and spoon.
10	J. R. Reed Music Co.....	15488	3.50	Bill rend. (Bow).
10	Hyde Park Floral Co.....	15489	9.75	Flowers.
10	Swann Fur. and Carpet Co..	15490	4.50	Rug.
10	Capitol City A. Co.....	15491	19.20	Auto supplies.
10	L. E. Baggett.....	15492	38.00	Butter, eggs and sausage.
10	Austin Gas Lt. Co.....	15493	44.52	Gas fuel.
10	Pannell's Dairy.....	15494	9.00	Milk and cream.
10	Lone Star Ice Co.....	15495	14.00	Ice.
10	Consumers F. & Ice Co.....	15496	32.50	Coal.
10	Kallgren & Lindahl.....	15497	14.00	Feed.
11	City of Austin.....	15830	22.38	Water and light.
11	City of Austin.....	15831	20.24	Water and light.
13	Hill & Hill.....	16031	49.85	Groceries.
13	S. W. Tel. & Tel. Co.....	16038	8.00	Phone rent.
13	S. W. Tel. & Tel. Co.....	16047	4.00	Phone rent.
16	W. A. Achilles & Co.....	16294	102.50	Groceries.
16	Carl Mayer.....	16494	40.00	Tea set.
1916.				
Jan.				
11	Stelfox Co.....	21016	12.00	Spoons.
11	Consumers F. & Ice Co.....	21017	\$ 28.90	Coal.
11	Otting Bakery.....	21018	24.75	Breadstuffs.
11	W. A. Achilles.....	21019	105.30	Groceries.
11	S. W. Tel. & Tel. Co.....	21020	4.00	Phone rent.
11	Austin Gas Lt. Co.....	21021	38.21	Gas.
11	Kallgren & Lindahl.....	21022	12.85	Feed.
12	Chas. Atchison.....	21255	12.00	Wood chunks.
14	Gulf Refng. Co.....	21447	23.40	Gas and grease.
14	Pierce-Fordyce .....	21448	12.01	Lubricants.
14	C. A. Dahlisch .....	21450	11.50	Net, felt, etc.
18	City of Austin.....	21883	25.96	Water and light.

## APPROPRIATION X16. MANSION AND GROUNDS.—Continued.

Fuel, Light, Water, etc.

Date.	Name.	No. Warrant.	Amount.	Class of Goods.
18 Feby.	Q. M. Crockett.....	21972	\$ 22.10	Vegetables.
7	City of Austin.....	24908	29.39	Water.
12	W. I. A. Ellison.....	25204	67.50	Wood.
24	Q. M. Crockett.....	26888	18.80	Vegetables.
24	L. E. Baggett.....	26889	42.45	Butter, eggs and sausage.
28	W. F. A. Ellison.....	28170	11.25	Sawing wood.
8 March.	Q. M. Crockett.....	29358	24.20	Vegetables.
10	Austin Gas Lt. Co.....	29660	40.19	Gas.
10	W. A. Achilles & Co.....	29661	66.60	Groceries.
10	Lone Star Ice Co.....	29663	7.00	Ice.
10	Gulf Refng. Co.....	29664	55.82	Gasoline.
10	Herman Schieffer.....	29665	23.00	Meat.
10	S. W. Tel. & Tel. Co.....	29667	4.00	Phone rent.
16	Model Laundry.....	30372	5.30	Laundry.
16	Swann Furn. Co.....	30373	12.00	Mattress.
16	W. A. Achilles & Co.....	30374	105.60	Groceries.
16	G. C. Boatman.....	30375	50.00	Milk tickets.
16	Model Laundry.....	30376	5.70	Laundry.
16	Otting Bakg. Co.....	30377	9.85	Breadstuffs.
16	Consumers I. & F. Co.....	30378	8.50	Coal.
16	Hume Wood & Fuel Co.....	30379	3.00	Chickens.
16	Kallgren & Lindahl.....	30380	10.15	Feed.
16	S. W. Tel. & Tel. Co.....	30381	4.00	Phone rent.
16	Kallgren & Lindahl.....	30382	15.10	Feed.
16	Herman Schieffer .....	30383	69.70	Meat.
16	Swann F. & C. Co.....	30384	13.50	Bed, etc.
16	Voss & Kooock.....	30385	37.55	Utensil and cutlery.
11 April.	Lone Star Ice Co.....	14863	7.00	Ice.
11	S. W. Tel. & Tel. Co.....	34864	4.00	Phone rent.
11	L. E. Baggett.....	34865	32.75	Butter, eggs and sausage.
11	United Tel. Co.....	34868	4.00	Phone rent.
24 June.	Mrs. Mary Schwarzer.....	44240	3.50	Washing curtains.
1915.				
12 Dec.	Hill & Hill.....	13836	2.10	Vegetables.
Total .....			\$1,973.23	

## APPROPRIATION Y14.

Year Beginning September 1, 1916.

Date Warrant Issued. 1916.	To Whom.	Number	Amount.
September.			
14	Austin Stove Works.....	1496	\$ 5.00
"	Geo. Mitchell.....	1497	12.95
"	S. W. Tel. & Tel. Co.....	1895	4.00
"	Texas Long Dist. Tel. Co.....	1897	2.00
"	Mary Schwarzer.....	1902	5.00
28	Tobin Book Store.....	3325	5.00
October.			
9	L. E. Baggett.....	4609	20.75
12	L. M. Crockett.....	5157	35.55
"	City Water and Light Department.....	5158	24.94
18	Espright & Lowery.....	5789	8.00
"	Swann Furniture and Carpet Co.....	5814	18.53
19	Home Steam Laundry.....	5945	4.50
"	Kallgren & Lindahl.....	5946	18.00
"	Austin Gas Light Co.....	5947	20.70
"	Herman Schieffer.....	5949	29.55
"	S. W. Tel. & Tel. Co.....	5958	4.00
"	Texas Long Dist. Tel. Co.....	5959	2.00
"	Lone Star Ice Co.....	5960	14.00
"	W. A. Achilles & Co.....	5961	142.25
"	So. Bedding Mfg. Co.....	5962	3.70
"	Voss & Kooek.....	5963	14.35
"	Swann Furniture and Carpet Co.....	5964	24.50
28	Austin Foundry and Machine Shop.....	7719	23.45
November.			
2	Kallgren & Lindahl.....	8209	43.85
3	Board of Prison Com.....	8458	3.56
6	H. M. Elam.....	8810	30.20
"	Home Steam Laundry.....	8973	5.80
"	Austin Gas Light Co.....	8974	19.34
"	Lone Star Ice Co.....	8975	7.00
"	Voss & Kooek.....	8976	3.60
"	Texas Long Dist. Tel. Co.....	8977	2.41
"	W. A. Achilles.....	8978	96.50
"	Capital City Auto Co.....	9688	86.75
13	Herman Schieffer.....	9851	29.85
"	S. W. Tel. & Tel. Co.....	9853	4.00
"	Swann Furniture and Carpet Co.....	9855	322.95
15	City of Austin.....	10022	17.93
23	Otting Baking Co.....	11099	11.40
December.			
1	Kallgren & Lindahl.....	12170	38.75
2	Home Steam Laundry.....	12225	4.10
4	L. E. Baggett.....	12469	35.55
"	Austin Gas Light Company.....	12470	34.06
5	The McAlester Coal Co.....	12613	32.50
"	Lone Star Ice Co.....	12614	7.00
"	H. M. Elam.....	12670	24.40
6	W. A. Achilles.....	12865	128.10
"	Texas Long Distance Tel. Co.....	12907	2.00
7	Voss & Kooek.....	13170	3.45
8	S. W. Tel. & Tel. Co.....	13674	4.00
13	Herman Schieffer.....	14014	25.40
18	City Water, Light and Power.....	14556	26.32
20	Gulf Refining Co.....	14984	50.62

## APPROPRIATION Y14.—Continued.

Year Beginning September 1, 1916.

Date Warrant Issued. January. 1917.	To Whom.	Number	Amount.
2	Underwood Typewriter Co.....	15831	83.03
"	Home Steam Laundry.....	15908	5.05
"	Kallgren & Lindahl.....	15909	27.00
"	Austin Gas Light Co.....	16125	46.04
6	McAlester Coal Co.....	16877	20.00
"	Lone Star Ice Co.....	16878	7.00
"	McKean, Eilers Co.....	16968	22.00
"	A. L. Elam.....	16984	17.25
8	W. A. Achilles.....	17086	135.25
9	S. W. Tel. & Tel. Co.....	17440	4.00
"	Texas Long Distance Tel. Co.....	17540	2.00
18	City of Austin.....	18356	20.51
February.			
1	Austin Gas Light Co.....	20310	52.43
May.			
21	S. W. Tel. & Tel. Co.....	35226	
		227	11.00
Total spent.....			\$1,996.44

Mr. Hanger: We now read into the record, and as a part of this witness' testimony, these two receipts or deposit warrants (reading):

Form No. 26 1347-815-4M  
No. 3525. Deposit Warrant \$1320.08

The Treasurer of the State of Texas will receive from Jas. E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of one thousand three hundred twenty and eight hundredth dollars, and credit to account of State Revenue Refd. to Approp. X16, Mansion and Grounds, Fuel, Light, Water, etc. Comptroller's Office.

H. B. Terrell,  
Comptroller.

Austin, Aug. 27, 1917.

Endorsed:

Treasurer's Office.  
State of Texas.

Austin, Aug. 27, 1917.

Received in Treasury the amount specified on the reverse hereof.

(Signed) J. M. Edwards,  
Treasurer.

Form No. 26. 1347-815-4M  
No. 3526. Deposit Warrant. \$1083.47

The Treasurer of the State of Texas will receive from Jas. E. Ferguson, Governor, by J. M. Edwards, Treasurer, the sum of one thousand eighty-three and forty-seven one hundredth dollars, and credit to ac-

count of State Revenue, Refd. to Approp. X14, Mansion and Grounds, Fuel, Light, Water, etc. Comptroller's Office.

H. B. Terrell,  
Comptroller.

Austin, Aug. 27, 1917.

Endorsed:

Treasurer's Office.  
State of Texas.

Austin, Aug. 27, 1917.

Received in Treasury the amount specified on the reverse hereof.

(Signed.) J. M. Edwards,  
Treasurer.

Q. Now, Mr. Davis, do you know—something has been said here about an overdraft of the Governor's account at the American National Bank—do you know anything about that?

A. I had no notice, that I recall, of an overdraft when it existed, but it is my understanding now that there was an overdraft there.

Q. Now, again, let me ask you who it was that kept the figures, kept the books with reference to the Governor's account—the placing of funds in it and the withdrawing of funds from it, for State purposes?

A. I did.

Q. I want to ask you now, Mr. Davis, about a letter dated January 20, 1915. Who wrote that letter? (Counsel hands letter to witness.)

A. I wrote it.

Q. For whom were you acting in writing that letter?

A. For the Governor.

General Crane: (To whom letter had been handed by Mr. Hanger for examination): No objection.

Mr. Hanger: We desire now to offer this letter written by J. H. Davis, Jr., dated January 20, 1915. (Reading.):

"Temple State Bank,  
"Temple, Texas.

"Gentlemen: I herewith hand you draft by the First State Bank of Canyon, Texas, No. 3367, on the National Reserve Bank of Kansas City, Mo., for \$5081.11, which you will please place to the credit of Jas. E. Ferguson, Governor. The Governor asked me to say to you to not increase your loans on the strength of this deposit, but to just hold it on deposit.

"With best wishes and kindest regards to you all, I am,

"Yours very truly,

"J. H. Davis, Jr.,

"For the Governor."

Q. Was that letter mailed to the bank?

A. Yes, sir.

Q. Some question has been made here about the other remittances that you made. Now, before we ask you that,—what fund was this?

A. That was the Canyon City—part of the Canyon City Normal Fund.

Q. Part of the Canyon City Normal Fund. Now, other letters appear here in this file—all of it has been introduced by us—in which you make other remittances there. Some question has been made as to why you did not impose a like obligation in the other letters?

General Crane: We object to that, Mr. President.

The Chair: What is the question?

General Crane: Well, he really hasn't asked the question I want to object to. I suppose you intend to ask him why? (Addressing Senator Hanger).

Mr. Hanger: Yes.

General Crane: Well, the matter—the point could be easily settled now. He has read a letter of January, 1915, sending a remittance of \$5000 to the Temple State Bank, in which he stated that the Governor

requested him to ask them not to increase their loans on that \$5000.

Mr. Hanger: No, sir, General, that is not right, candidly.

General Crane: And this particular letter—

Mr. Hanger: No, sir, that is not in the letter.

General Crane: The letter will speak for itself.

Mr. Hanger: I know, but it is not right for the General to make that statement.

General Crane: Well, I will read the letter. You needn't get so indignant. (Reading from letter): "The Governor asked me to say to you not to increase your loans on the strength of this deposit." That is the exact statement I was making—that he asked them not to increase their loans on the strength of that deposit, that is what it says. Now, he is about to ask why those instructions were not repeated in each of the other letters; and I say it is too late now to add any condition to them, that the letters speak for themselves.

Mr. Hanger: The purpose of this testimony is—I probably ought to state it to the Chair out of the presence of the witness, and will if required to do that.—If they don't demand it though, I will state that the purpose of this testimony is to develop that the use of the word "deposit" meant the deposit of this fund under this Governor's account. There were read here, yesterday, by Mr. Harris, numerous other letters accompanying deposits, and commented on at the time that it did not contain, and said that was the reason they offered the letters. We expect to show by him that he intended them to understand, there were to be no loans against the Governor's account, the Governor's deposit. This letter nowhere says "this \$5000 deposit"; that you not increase your loan on the strength "of this deposit." This was the initial deposit. The whole constituted a deposit to the Governor's account, and this constituted, as we insist, and want this witness to testify, an instruction with reference to the whole of the deposit, and not to just this one.

The Chair: Anything further before ruling on the objection?

General Crane: Yes, sir. The letter speaks for itself, Mr. Presi-

dent, and according to the ordinary meaning of the English language as it is understood, when a man makes a deposit of \$5080, or any other sum, that is a deposit, and the instructions accompanying that deposit control that. When he makes other deposits, they are separate deposits, and the whole various items of the various deposits constitute his account. And he can not now, by oral explanation, increase or change the meaning of that letter; it is limited to that deposit, and it can not be enlarged by oral testimony now to mean something that he does not say.

Mr. Hanger: No body has ever attempted and is not going to attempt to enlarge anything. We offer this for the additional reason, Mr. President, to show the intent of the Governor. They have attempted to show by numerous pieces of testimony, suggestions and insinuations that the Governor's intent was to reap profit, and they charge here in one of these articles of impeachment that this deposit was made for the purpose, that the Governor had in his mind the purpose and intention of deriving profit from these deposits. We offer it on the intent of the Governor, manifested and acted through and expressed by his agent, the witness.

The Chair: The Presiding Officer has a grave doubt as to the admissibility of it, but will admit it on the question of the intent of the Governor, to be considered by the Court for whatever it is worth.

Q. Mr. Davis, answer the question, please.

A. State it again, please, sir.

Q. Did you intend to limit by this letter the \$5000 deposit, or did you intend to apply it to the whole? That is the purpose—that is, shortly stated.

A. Well, it is understood by—

Q. (Interrupting.): No, just answer.

A. No, I did not. I intended for it to apply to the entire deposit to the Governor's account.

Mr. Manager Bryan: A Senator asks for the date of that letter.

Mr. Hanger: The 20th day of January, 1915.

Q. When did the Governor take office in 1915?

A. The 19th day of January.

Q. The 19th day of January.

This was the next day after he became Governor.

Mr. Hanger: We now offer, as a part of this witness's testimony—(Mr. Hanger here handed paper to General Crane for examination.)

General Crane: No objection.

Mr. Hanger: We offer the following document. (Reading.):

"August 25, 1917.

Received of Jas. E. Ferguson, formerly Governor of Texas, the sum of \$4693.50, same being \$1546.85 to the credit of the King's Highway Fund; \$30.61 to the credit of the Storm Refund Fund, and \$3116.04 to the credit of the Texas National Guard Fund, now in the hands of the said Jas. E. Ferguson, and same is received by me as Acting Governor from the said Jas. E. Ferguson.

Witness my hand this the 25th day of August, A. D. 1917.

"W. P. Hobby,  
"Acting Governor."

Q. Is that the receipt executed by Governor Hobby and delivered to Governor Ferguson for the payment of those amounts?

A. It is.

Q. Is there now in the hands of yourself or Governor Ferguson, either, any money belonging to the State of Texas?

A. No, sir.

Mr. Hanger: That is the examination.

The Chair: Take the witness, gentlemen.

Cross Examination  
By General Crane.

Q. When did you first enter the employ of Governor Ferguson?

A. I believe it was in January, 1909.

Q. In the capacity of stenographer?

A. Yes, sir.

Q. Later you became bank teller and assistant cashier of the Temple State Bank?

A. Yes, sir.

Q. You remained there with him until 1915, until he came down here.

A. Yes, sir.

Q. Did you accompany him to Austin and enter his services as assistant secretary immediately after his inauguration?

A. It was not termed the assist-

ant secretary at that time; that was called just a stenographer, and it was changed at that Legislature.

Q. Changed at that Legislature?

A. Yes sir.

Q. But you entered the office performing practically the same duties that you are now performing?

A. Yes, sir.

Q. Governor Ferguson had a good many different interests, did he?

A. Yes, sir.

Q. You mean to say that the Governor paid no personal attention to any of them, but committed that all to you?

A. No, sir, not entirely, but all,—practically all of the details of his business was handled by me.

Q. You saw—they were read in evidence here, something over forty personal letters of his written to the Temple State Bank and the officers of it, covering this same period, about his own business. Did you take those dictated letters?

A. Yes, sir, I think without exception I wrote those letters.

Q. Without exception you wrote them all.

A. Yes, sir.

Q. You saw where he was asking for statements of his personal account?

A. Now, just a minute, General. I wrote some of those letters and prepared them for his signature myself. I do not mean to say that he dictated all those letters to me, but he signed them.

Q. Oh, well, when he would tell you what he wanted, you could write a letter without taking dictation of it?

A. Sometimes I wrote it without his telling me so.

Q. I understand, but he always—those letters were sent out over his signature?

A. Yes, sir.

Q. Asking for a statement of his personal account, also for a statement of his individual, of his trustee account, or his escrow account, and also asking for a statement of his account as Governor?

A. Yes, sir, that is true.

Q. Well, now, you had written—if you had written similar letters over your own signature, why should you prepare, without instructions

from him, a letter of the same kind for his signature?

A. Well, I wanted him to see them.

Q. Wanted him to see the statements?

A. Wanted him to see the letters.

Q. Exactly. Well, you wanted him to see the letters you had written for those statements. You always got a courteous answer from the Temple State Bank, did you not?

A. That is true, yes, sir.

Q. As to the character—as to what you wanted?

A. Yes, sir.

Q. If you asked for a statement, you got it, didn't you?

A. Yes, sir.

Q. Now, you wrote a letter on the 23rd of March, 1916, asking for a statement of his Governor's account, and it has disappeared from the files here. Has it been misplaced among some of the other papers?

A. On March 23rd?

Q. Yes, 1916.

A. It may be true; I can't tell.

Q. Can't you get a copy from your office. You kept office copies of every letter you wrote, didn't you?

A. Yes, sir.

Q. You have not produced copies of all the letters you wrote to the Temple State Bank, have you?

A. No, sir, I have not produced any.

Q. You have not produced any. Now, then, on the 30th day of March, 1916, Governor Ferguson wrote a letter, which has been read in evidence here, to the Temple State Bank, asking for a statement of his account as Governor. Why should that letter have been written so soon after the one that you wrote?

A. I don't know that; I don't recall that letter.

Q. How many statements did you get of his gubernatorial account during the period of 1915 and 1916?

A. Three, I believe.

Q. Have you got them all here?

A. No.

Q. Would you be good enough to get them?

A. I will get those.

Q. Just make a note of that, and we won't stop now.

Mr. Hanger: Give him a sheet of paper, he hasn't got any paper there, so he can make a note and comply

with the request. (Witness makes note of the request.)

Q. Would those statements be accompanied—each of them—by a letter from the bank, or just the statement?

A. Usually just a statement.

Q. Now, you got statements—the Governor, in June of this year, or thereabouts, wrote a letter, which has been read in evidence, may be later, asking for a statement of his "escrow account" with the Dayton Lumber Company—that was furnished, wasn't it?

A. I think so, yes, sir.

Q. Will you be good enough to make a note of that? We would like to have that statement.

A. A statement of the Governor's special account?

Q. A statement of the Governor's special account by the Temple State Bank, involving the Dayton Lumber Company, being the one for which he specifically asked.

Mr. Harris: June 1st, 1917.

Q. June 1st, 1917. (Witness makes note of request). What kind of copies did you keep—carbon copies or letter-press?

A. Both.

Q. Both?

A. Yes, sir.

Q. Make one, each, of the same letter?

A. Yes, sir.

Q. Make a letter-press copy and then have a carbon copy first?

A. The carbon copy was made when the letter was written.

Q. To be sure.

A. And then the letter was copied.

Q. And then afterwards copied in a letter-press.

A. Yes, sir.

Q. All of them or just one?

A. All of them, that is the rule.

Q. Yes. Now, why—

A. I will say—excuse me.

Q. All right.

A. The first two or three days that we came down to Austin Mr. Wroe, the Governor's Secretary, thought it would be well just to keep a carbon copy and not a letter-press copy, and for about three or four days there weren't any copies made in the letter-press book, but after that time that rule obtained.

Q. Yes, yes. Now, why was the Governor writing for all these special accounts, his gubernatorial ac-

count, his personal account, his escrow or special account with the Dayton Lumber Company, if you were personally keeping up with all of the details of his business to his satisfaction?

A. I can't answer that. I don't know his reasons for asking it.

Q. You can't answer it? Why should he have written all those forty letters if he was paying no personal attention to his personal business at all—forty-five letters—but was committing it to you?

A. That is not true; he did pay some attention to his personal business.

Q. He did pay some attention to it?

A. Yes.

Q. Yes. So he did know something of what was going on in his office and his business?

A. Yes, sir.

Q. Kept pretty well up with it, didn't he?

A. Well, not as to the details, no.

Q. Well, now, did you keep up with it?

A. Tried to, yes, sir.

Q. All right. Can you explain why it was when you got that account with only four items in it—that statement, that bank statement, showing you that a personal indebtedness of Governor Ferguson of \$5600, two notes to the First National Bank of Temple, had been paid out of that gubernatorial account? Why was it that you didn't catch that item—it was only one in four?

Mr. Hanger: Two notes, General.

General Crane: I know, two notes—one note and two items of interest. Only one note.

A. It never occurred to me that there should be any cross entry or any amount should be charged to the Governor's account except that which had been remitted to the American National Bank.

Q. You have not answered the question. Why was it that in looking over that account, if you, a diligent man, to whom those things were committed, and only four checks or credit charges—charges against the account—why was it that you did not detect that there had been \$5600 of the people's money held by the Governor applied

to the payment of a personal note of his at the First National Bank of Temple?

A. I answered the question the best I know how, General—that it did not occur to me that there would be any charge against that account. There were no checks—I didn't look at the signature to the checks, and they were plain charge tickets.

Q. Didn't you verify those charge tickets by the remittance asked for?

A. I might have counted the tickets, but I didn't look to see what the writing was.

Q. Now, when you get a bank book with checks and charge in a bank account—your pass-book returned to you, do you not look for the authority to enter as large an item as \$5600?

A. I don't go back and check with the letters.

Q. Don't you check with your check stubs?

A. No, sir, I don't keep any check stubs.

Q. Don't keep any check stubs?

A. No, sir.

Q. Don't keep any check stubs in the office at all?

A. Only for the checks that I write. The Governor writes checks, and his wife writes checks and it is impossible for me to check a bank statement against a stub when he writes checks like that when I don't know anything about it.

Q. Well, but you wrote all the checks on the Governor's account, didn't you?

A. On the Governor's personal account, or—

Q. No, I mean on his Gubernatorial account?

A. No, sir.

Q. Didn't write any of those checks for him at all?

A. My recollection is I wrote two.

Q. Well, now, he had those stubs in his office, didn't he?

A. If he did, I don't know it.

Q. Doesn't he keep his check book in his office that he writes his official checks on?

A. I don't know; I never saw it.

Q. Now, you are his private secretary, you ought to know—his assistant private secretary. You don't know whether he keeps a check book there or not?

A. It is my impression that he does not.

Q. Where does he write his checks?

A. Well, I write them, sometimes prepare them on the typewriter for his signature, but in that instance, with two exceptions, possibly three, he wrote them out with a pen.

Q. With a pen?

Q. Yes, sir.

Q. And you don't know where he got the checks?

A. No, sir.

Q. Didn't keep any check book on any banks?

A. No, sir.

Q. And you didn't keep any stubs of the ones you wrote for him?

A. No, sir.

Q. Did you keep books?

A. I kept this memorandum book, yes, sir.

Q. Now, didn't you keep a memorandum of every item that you ordered from the Temple State Bank to the American National Bank?

A. No, sir.

Q. You mean to say you would not know where those funds would be from time to time?

A. I knew they all were in the American National Bank or the Temple State Bank.

Q. But how much was in either, you wouldn't know?

A. No, sir, kept no books, because when this money first came into the Governor's hands there were several banks in West Texas who were remitting at regular intervals here in Austin. There is no system of bookkeeping in the Governor's office; I found none, and it was not incumbent on me, as I felt, to keep a whole big set of books.

Senator Westbrook: Mr. President, we can't hear the witness.

The Chair: Speak louder.

Q. You say you didn't feel it was incumbent upon you to keep a set of books like that?

A. No, not with these various banks, I knew it was being remitted and I knew it was the only fund I had at that time.

Q. Mr. Davis, didn't you feel responsibility, as private secretary of the man who had the Governor's fund of \$101,607 and some odd cents—

A. Yes, sir.

Q. Didn't you feel it was incumbent upon you to keep a correct record of the disbursements of that fund so you could make a proper

statement of your own account of it?

A. That is true, I kept an account of every disbursement made against that fund.

Q. All right. Did you have any account of the disbursement of this \$5,600?

A. I did not.

Q. You had no account of that at all?

A. No, sir.

Q. Except such as the bank furnished you?

A. Yes, sir.

Q. But you credited on your book the entire three items, all of it, up to the bank?

A. How is that?

Q. When you would get these statements would you credit the bank with them, in the account kept with that bank?

A. I didn't keep any account with the bank.

Q. Well, you kept the Governor's account, the amount in and the amount drawn out of it, didn't you?

A. I had all in one fund in this book, \$101,000, and when a check was issued I would put the check down.

Q. Well, did you put that \$5,600 down?

A. No, sir, because it wasn't a check to the Treasurer, but it was, as I supposed, a remittance to the American National Bank.

Q. Then did you put the other two items down against the Temple State Bank—the other three items?

A. What three?

Q. Three charges?

A. No, I didn't.

Q. You made no entry at all on account of the statement sent you?

A. No, sir.

Q. To be sure, you thought it wasn't necessary to see that the addition was accurate upon it; you would wait until some one challenged it for an error?

A. Well, as long as I knew how much money the Governor got and how much he was putting in the Treasury, which they were entitled to receive, that's all I paid any attention to.

Q. Did you keep a correct account of that?

A. Yes, sir.

Q. Exactly. Now, let's get to that statement and see where we are:

How much money did he pay into the Temple State Bank from all sources?

A. To his Governor's account?

Q. Yes, sir, to his Governor's account?

A. Approximately \$45,000.

Q. I don't want it approximately, I want it exactly, don't your book show?

A. No, sir, it does not.

Q. Don't you know that he paid into the Temple State Bank, as exhibited by the books, altogether \$51,800, something like that?

A. That may be true.

Q. Haven't you a list of each deposit that he made in the Temple State Bank?

A. No, sir, I have not.

Q. Do you mean to say that you kept no record of it in your office at all?

A. Only by remitting it by letter.

Q. Well, don't your letters disclose, didn't you keep a check on it some way?

A. I didn't check back with the letters, no, sir, I could look the letters up.

General Crane: Indulge me a moment, Mr. President.

Q. Now, Mr. Davis, the statement that we have here of the Temple State Bank—your first deposit was made there on January 21, 1915, by a deposit of \$5,081.11, with your letter that you were talking about here a few moments ago?

A. Yes, sir.

Q. On February 3rd, 1915, another deposit. Will you be good enough to make the calculation there as we go along—\$5,081.11; and another deposit on February 3, 1915, of \$2,500; February the 5th, a deposit, the same year, of \$10,000; February the 16th, deposit of \$10,000; April 14, deposit of \$2,500; May the 1st, \$2,500; May 20th, \$2,500; June 10th, \$607.07. Do you know what that item of \$607.07 was?

A. That was interest paid by the First National Bank of Amarillo.

Q. That had been deposited under the Colquitt administration?

A. Yes, sir.

Q. August the 3rd, \$3,000; August 5, \$2,000; December 21st, 1915,

\$1,297.50. Now, will you be good enough to add them and see how much it makes?

A. It seems to me, \$52,985.68.

Q. I think you made a mistake of a thousand dollars, you or the bank teller one made it, I don't know which, but it is \$51,985, I think. However, I have not added it. Let's verify it again. The first was \$5,081.11, the next \$2,500, the next \$10,000, the next \$10,000, the next \$10,000, the next three \$2,500, \$2,500, \$2,500; the next \$607.07, the next \$3,000, the next \$2,000, the next, \$1,297.50.

A. I have them all here, \$51,985.68 is correct.

Q. Now, did you get the checks that were drawn on that amount. Have you the tickets?

A. Yes, sir.

Q. Suppose you take these amounts and see if that is not correct:

On June 12th, 1915, \$5,000; July 8th, \$10,000; August 10th, \$5,000; August 23, \$5,600; January 21—no, I beg your pardon, January 12th, 1916, \$6,156; February 3, \$6,000; March 7, \$3,000; April 13, \$9,932.18. What is the total?

A. I make it \$50,688.18.

Q. Fifty thousand how much?

A. Six hundred, eighty-eight eighteen.

Q. Yes. Now if you deduct that \$5,600—

A. I think that should be \$49,688.18.

Q. No, you had it nearer right the first time, it ought—it probably ought to be about \$50,900.

A. That's right, \$50,688.50, according to what I have got down here.

Q. Well, all right. Now deducting \$5600 from that you will find how much of it was paid out on the Canyon City building won't you?

A. You will find how much was remitted to the American National Bank.

Q. Exactly. Well, none of that in the Temple State Bank was applied to Canyon City except that remitted to the American National, was it?

A. One check.

Q. I know, we will get to that in a minute, but take out first the \$5600 leaves how much?

A. \$45,880.—

Q. Not that much?

A. Deduct \$5600 from \$50,688—

Q. Yes.

A. Leaves \$45,088.18.

Q. All right. Now then you drew one check on the Temple, State Bank, didn't you, of \$6156?

A. That is true.

Q. All right. Now take that away from that, what is left?

A. \$38,932.18.

Q. All right. Now how much of that fund was deposited in the American National Bank in the beginning?

A. As I recall the first deposit was \$10,000.

Q. Well, how much of it altogether—there was \$101,607.18, wasn't there?

A. That is the total, yes, sir.

Q. All right. Now suppose you take away from that the amount deposited in that Canyon City fund, and the Temple State Bank, then see how much was left?

A. Approximately \$50,000.

Q. I don't want it approximately, I want it exactly.

A. There seems to be \$50,919.

Q. Now, add the amount of the Canyon City fund that was brought from the Temple State Bank down there, and how much will that make?

A. \$101,607—

Q. Oh, no, no, now, you can't get it—the amount, the cash, that was brought down there—how much was brought down there, you figured it out a while ago.

A. Oh, you mean from the Temple State Bank?

Q. Exactly.

A. \$50,000—

Q. Beg pardon, you found \$5600 was in that brought down.

A. You mean remitted?

Q. I mean brought to the American National Bank, whatever term you use.

A. \$38,932.18.

Q. Well, add the two together and see what they make.

A. That makes a total of \$89,851.18.

Q. All right. Now take that \$6156, assuming that your additions are correct, the cash that you drew out of the Temple State Bank and put in the State Treasury, how much will that make?

A. How much? \$96,007.18.

Q. \$96,007.18? Now, Mr. Davis,

after taking out of the American National Bank every dollar of the funds that was put in of the Canyon City funds, and after taking out \$6156 from the Temple State Bank, and apply there, you were over five thousand dollars short, weren't you?

A. Yes, sir, in that fund?

Q. In your Canyon City fund?

A. Yes, sir.

Q. Therefore, this \$101,607.18 had to be paid by drawing on funds other than the Canyon City fund, didn't it?

A. That would be the effect of it, yes, sir.

Q. That would be the necessary result of it, wouldn't it?

A. Yes, sir.

Q. Now, what funds were taken by the Governor to make up that \$101,607.18?

A. They were not taken by the Governor.

Q. Well, who took them?

A. That check of \$21,000 would naturally overdraw the account, if there wasn't that much money in the fund.

Q. Exactly. Now, as a matter of fact on the day that that \$21,000 check was drawn, the account was overdrawn, wasn't it?

A. Yes, sir, it must have been.

Q. Well, they sent you a statement on that day showing that fact, didn't they?

A. I don't know. I don't recall getting any statement like that.

Q. Well, would you swear they didn't send you a statement exhibiting that fact to you?

A. No, sir, I would not.

Q. Now, Mr. Davis, that \$21,743.83 was drawn on April 27, 1916, wasn't it?

A. That is the day it reached the bank, yes, sir.

Q. The day it reached the bank, and on that same day you had an overdraft on the Governor's account, the gubernatorial account, J. E. Ferguson, Governor, had an overdraft of \$1847.50, in his account in which the Canyon City account had been deposited?

A. With others—

Q. Now, wait a minute, let's see before we get through, now, on the 23rd day of April—will you look at that statement of April 27, that the bank furnished you?

A. April 27th?

Q. 1916, the American National

Bank furnished you, showing that overdraft to the Governor's funds?

A. I will look at this statement, I have not found it.

Q. You haven't found it yet, will you be good enough to look for it again?

A. Yes, sir, I will—that is April? April 27, 1916.

Q. Let's go back a bit now.

The Chair: Let's have better order, please, in the Chamber. Let's not have any talking, there ought not to be any talking while this witness, or any other witness is being examined.

Q. Now, let's go back a bit. When was that Adjutant General's fund deposited in the Governor's account, on what date?

A. Hand me that book, please, sir. (Examining book.) On March 4, 1916.

Q. March 4, 1916? And what was the amount of it?

A. \$3050.

Q. What other funds at that time, other than the Canyon City funds, had been deposited to the Governor's account in the American National Bank? Had any Highway Fund?

A. They had been deposited, yes, sir.

Q. How much?

A. In the American National Bank, \$702.50.

Q. \$702.50? Any other fund deposited there?

A. That seems to have been all.

Q. All right. Now wait just a minute, let's make some figures, and approximate it, if you didn't get it quite correct. The adjutant general's account was how much, that is, that deposit?

A. At that time \$3050.

Q. All right, the King's Highway fund was how much?

A. Two thousand—no, in that bank, \$702.50.

Q. Yes, making a total of what?

A. \$3752.50.

Q. All right. Now the overdraft, after he had checked it, taken all of that out, left you an overdraft of \$1847.50. Now add that overdraft and see how much that will make?

A. \$5600.

Q. \$5600, the precise amount of that sum that was applied to the payment of the Governor's debt in Temple on the 23rd of August, 1915?

A. That is true, yes, sir.

Q. Now, how were those overdrafts made, what were the next deposits after those overdrafts?—I see that you had a deposit—yes, August 3rd—June 11, I guess it is. June 11 there was a deposit of \$200 to cover the credit, what was that?

A. June 11?

Q. Yes, that's what it seems to be here on the statement.

A. That was received from Mr. D. E. Colp, of San Antonio.

Q. What was it about?

A. That was—he was secretary, as I understand it, of the Texas Good Roads Association.

Q. It was Good Roads fund?

A. Yes, sir.

Q. Exactly. Now on the 15th of July, there was another deposit made to the Governor's account of \$223.58. What was that, please?

A. What date was that?

Q. July 15th.

A. \$223.58?

Q. Yes, sir.

A. That was from the American Indemnity Company of Galveston.

Q. That was the Adjutant General's account, wasn't it?

A. Yes, sir.

Q. That went to the Adjutant General's account.

A. Yes, sir.

Q. Now, on August 3rd there was \$1850 deposited to his account, what was that item, of what did it consist?

A. I have not got any record of that deposit.

Q. None at all?

A. I know now what it was, I have no record of it, though.

Q. Well, what was it, if you know?

A. It was the Governor's personal check.

Q. It was the Governor's personal check?

A. Yes, sir.

Q. Where is the check, have you got it?

A. Down there in his office.

Q. You haven't got it back from the bank?

A. Yes, sir.

Q. Will you produce that along with the other checks on this fund?

A. You mean the checks on the American National Bank?

Q. Yes, August 3, 1916.

Senator Lattimore: Was that the date of the \$1,800 deposit?

General Crane: Yes, \$1,850.

Senator Lattimore: 1916?

General Crane: Yes.

Q. Now, November 14, \$30.60; November 14, 1916. What did that amount to, what was it about?

A. November 14?

Q. Yes, sir.

A. \$33.01.

Q. No, it is \$30.60.

A. Oh, yes, that was received from D. E. Colp.

Q. Same good roads fund?

A. Yes, sir.

Q. November 29, \$57.05?

A. That is the same fund.

Q. The same fund? February 14, 1917, \$30.61?

A. That was received from the Adjutant General on the storm fund.

Q. The storm fund? Now, wait a minute. Now, during the time were those deposits—no, there is something else here. April 23rd, 1917, there was a deposit of \$1,100 made, what was that?

A. Contribution by the Business Men's Club of Kerrville, \$100, and the Sons of Hermann of Texas, \$1,000, to the credit of the American Red Cross.

Q. The American Red Cross?

A. Yes, sir.

Senator Gibson: Mr. President.

The Chair: The Senator from Fannin.

Senator Gibson: And General Crane, I want to ask counsel for a little explanation: Was that \$1,800 some odd dollars—the Governor's personal check?

General Crane: Yes, that's what he says.

Senator Gibson: What fund did it go to?

General Crane: It went into the gubernatorial account again.

Q. Now, this amount was checked on all the time after the Governor put in his personal check, wasn't it, the amount of the checks?

A. I have a list of all of them that were issued.

Q. Well, July 10, one issued for \$16.45, is there?

A. It shows on the 6th in my book, July 6th.

Q. Well, that is the date it is presented, I fancy, here. July 25th—what was that \$16.45?

A. George Marshall, he was a good roads—expense account.

Q. July 25th, \$7.50, what is that?

A. I haven't got any record of that check.

Q. You have got no record of it?

A. No, sir.

Mr. Hanger: What was the amount of that?

General Crane: \$7.50.

Q. July 28th, \$157.54, have you any record of that?

A. Yes, sir, that was to George M. Bowie, for rent on building, that was out of the Adjutant General's fund.

Q. That was out of the Adjutant General's fund?

A. Yes, sir.

Q. Then, July 31st, there is \$32.95, what is that?

A. July 31st, 1916?

Q. Yes, sir.

A. I haven't got any record of that check.

Q. You haven't any record of that?

Mr. Hanger: What was the amount of it?

General Crane: \$157.54.

A. That is the one I just read, \$157.54.

Q. Well, it is \$32.95 you can't find, is it?

A. That's right.

Q. I want to get it down right, you say this \$32.95 you could not find?

A. Yes, sir, that is right.

Q. August, 16, a check for \$107.84, drawn on it? Have you any account of that check?

A. August the 16th?

Q. Yes, sir. Oh, yes, it may be a little different, it may be this is drawn a day or two before?

A. I understand.

Q. I take it these are the dates they are presented at the bank?

A. What is the amount?

Q. \$107.84.

A. That was a check to George D. Marshall, out of the good roads fund.

Q. October 2nd, \$51.95?

A. Same account.

Q. October 13, \$21.35?

Senator Lattimore: How were those checks drawn?

Senator Hudspeth: Are those deposits?

General Crane: These are deb'ts,

checks drawn against the deposit the Governor made of \$1,850.

A. October 10, was issued a check to George D. Marshall for \$21.35.

Q. Well, that's it I guess.

Q. Now, then, November 1st, there is a check for \$0.75 cents, What was that?

A. I haven't got any record of that check.

Q. November 14, \$33.01?

A. That was to George D. Marshall out of the good roads fund.

Q. November 29th, \$57.05?

A. That was to George D. Marshall out of the good roads fund.

Q. November 30th, \$57.05?

A. To the same man out of the same fund.

General Crane: Now, as a part of this witness' cross examination, I will call attention to the fact that the overdraft in April was \$1,857.50, on the American National Bank.

The Chair: Let's have order in the Senate Chamber.

General Crane (Continuing): That the overdraft on April 27, on the Governor's account at the American National Bank at Austin, was \$1,847.50, and that the Governor's deposit on August 3d, following, was \$1,850, the overdraft at that time having been reduced by smaller deposits to \$1,638.36, and then at the date that all of these checks were in, February 14, 1917, there was a balance of only \$57.95 to the Governor's account, and the balance of \$1,157 was made up by the \$1,100 flood sufferers, which you say—

A. (Interrupting): \$1,150.

General Crane: No, you said \$1,100, I think. You said there was one thousand by somebody, I think?

A. No, that was Red Cross.

General Crane: Suggestion by counsel the overdraft here exhibited in the Governor's account continued from April 27th, until, it is quoted here, July 31st, and presumably until this check was given, I guess that is so?

Q. Now, the funds, the balance that you had in this bank here, at the date when the account was closed, that is August 31st, of this year, shows to be \$57.95. What fund does that belong to?

A. It doesn't belong to any funds now, it belongs to the Governor.

Q. What did it belong to at that date?

A. It was a part of these various funds that were on deposit there.

Q. A part of these various funds that were on deposit there?

A. Yes, sir.

Q. Now, Mr. Davis, if all of the Canyon City fund had been deposited in that bank, if all of the gubernatorial funds, these other funds, had been deposited in that bank, the Red Cross fund, the Good Roads fund, and others, and if the Governor's \$5,600 debt had not been paid out of the Canyon City funds, there ought to have been a balance at this date in this bank, of \$5,600, ought not there, plus the \$1,850 of the Governor's personal check, up until the time that he turned it over to Governor Hobby?

A. That would be right, yes.

Q. That would be right, yes. Now, Mr. Davis, did you carry this personal check of \$1,850 down, of the Governor's?

A. No, sir.

Q. How did it come there?

A. I don't know, I guess he gave it to them.

Q. All you know now is that the check was carried down there to cover that overdraft in the Governor's account in the American National Bank?

A. I know that, yes, sir.

Q. You know that?

A. Yes, sir.

Q. Then the Governor must have known there was an overdraft and that deposit was to meet it, wasn't it?

A. Evidently he did.

Q. Evidently he knew there was an overdraft. Statements had been produced by the American National Bank before that date, hadn't they?

Senator Caldwell: Mr. President, I don't like to interrupt counsel, but would like to ask the witness when he was first advised of the overdraft in the Governor's account at the American National Bank?

General Crane: Yes, I will go to that, Senator. What was my question there last? I was interrupted.

(Thereupon the stenographer read the question, as follows: "Q. Statements had been produced by the American National Bank before that date, hadn't they?")

A. I received statements, yes, sir.

Q. You had received statements prior to that time showing the overdraft?

A. No, sir, I don't say that. I don't recall ever seeing a statement with an overdraft—red.

Q. When did you first learn of that overdraft?

A. The first I recall was when I

was before the Travis County grand jury. I had the statement brought down to date of that account and in that account.

Q. Now, the Travis County grand jury—when were you there?

A. In July, the latter part of July.

Q. Of this year?

A. Yes, sir.

Q. That was the first time you ever knew of there being an overdraft at the American National Bank?

A. The first I recall of it, yes, sir.

Q. Well, now, the Governor made his deposit there at that time. Do you know when he learned about it?

A. No, sir, I don't.

Q. All right. This deposit of his—you understand my question—was made on August 3, 1916?

A. I understand that, yes, sir.

Q. Nearly a year before the Travis County grand jury met?

A. Yes, sir.

Q. Of which you are speaking. Didn't you get monthly statements from each bank with which you did business on the first of each month or thereabouts?

A. No, sir.

Q. All right. Now, we have statements, here, Mr. Davis, from someone else to the effect that statements were furnished you or the Governor, one or both, on the 21st day of November, 1915, the 18th day of March, 1916, the 27th day of April, 1916, and the 15th day of May, 1917. Now, will you be good enough to get us those statements?

A. I will try to get them, yes, sir, if I've got them.

Q. Now, another thing. Will you likewise be good enough to get us the checks showing the personal deposit of the Governor of that \$1,850?

A. You gave me that a while ago.

Mr. Hanger: He took a memorandum of that a while ago.

General Crane: Yes.

Q. Can you bring the deposit slip of that \$1,850?

A. I haven't seen it; I don't know where it is.

Q. Then the Governor must have been advised of that overdraft from some other source than you?

Mr. Hanger: That is argumentative.

A. I don't recall having any knowledge of it at the time, no, sir.

Q. Well, here is a question a Senator asks: You don't mean to say, of course, that the American National Bank would permit an overdraft of

the Governor's account to the amount there stated from April 27th until August 3d without ever rendering either you or the Governor a statement of that fact?

A. I don't know what they would do, no, sir.

Q. Well, you don't mean to say they did not furnish you a statement, do you?

A. No, sir; I don't recall ever having seen one.

Q. You don't recall ever having seen one?

A. No, sir.

Senator Caldwell: Mr. President, I don't like to interrupt counsel, but I think it is a very material inquiry in the case—at least, it is to my mind—and I would like to have counsel ask the witness—

The Chair: Let me remind the Senator that you should suggest it to counsel or put it in writing.

Senator Caldwell: Well, I will write it out.

The Chair: All right.

Q. I understand you to answer that you will not swear positively that no such statement was furnished?

A. No, sir.

Q. But that you have no recollection of seeing it?

A. That's it.

Q. That's as far as you mean to be understood as going?

A. That's true, yes, sir.

Q. Now, I believe you were not a witness over there before the House Committee—the Committee of the Whole House?

A. No, sir.

Q. Nor before the House Committee that met in March?

A. No, sir.

Q. This is your first appearance on the witness stand?

A. In this hearing.

Q. Except before the Travis County Grand Jury in July of this year?

A. Yes, sir.

Q. Did you tell the Travis County Grand Jury—you need not answer this until the Court instructs you, because I know what your Grand Jury oath was. Did you tell the Grand Jury that you did not know that fifty-six hundred dollars of the State's money was used to pay the Governor's debt until that moment?

The Witness (to the Chair): Shall I answer that?

General Crane: We think, your

Honor, this is admissible, as a judicial proceeding—his testimony before the Grand Jury.

The Chair: Where the truth or falsity of a matter is under judicial investigation?

General Crane: Yes, sir.

Judge Martin: If the Court, please, we would like to state our position.

The Chair: I will be glad to hear you, Judge.

Judge Martin: We understand he has no right to ask him if he did tell such and such a thing before the Grand Jury, but as we understand it, if there is any question that they want to lay as a predicate, ask him if he did not make such and such a statement before the Grand Jury, why, they could ask that question and then introduce evidence along that line, but under his oath before the Grand Jury they would have no right to ask him if he did do so and so; in other words, if he did make statements there he can submit a statement to him whether he did not make such and such statements. As I understand it, the only question that they have a right to propound to this witness is for the purpose of laying a predicate of impeachment. They have no right to inquire into any statement he made before the Grand Jury unless it is for that purpose. Now, the question is if he did make such and such statements, that is our understanding of the oath and our understanding of the practice. If for the purpose of discrediting the witness they desire to show that at a different time and place before the Grand Jury in Travis County he made a statement different from the statement he made here it will be admissible; otherwise it would not.

The Chair: What say counsel to that?

General Crane: I had thought, Mr. President, that the rule would not be that narrow. Of course, I know we could ask him if he did make a certain statement before the Grand Jury, and if he denied it and we could find a witness who understood him as making it we could contradict him on that point; but now also I thought we could ask him if he made the explanation which he has made here of the incident of the payment of that fifty-six hundred dollar note and interest, if he

made that explanation there or if he did not fail to make it. Now, it may be that there would be no controversy about it. I think, however, it is covered by the statement that when you are investigating the truth or falsity of a witness' statement he may state any circumstance that occurred in the Grand Jury room which would militate against the statement that he is making here, and it would be for the consideration of the Court; in other words, I don't think it was the policy of the law to limit the government to a positive contradiction, but anything that would tend to lessen the weight of the witness' testimony who is testifying before the tribunal in which the Grand Jury statements are sought to be used. Now, for example, if I am on the witness stand and they ask me if I did make a certain statement before the Grand Jury and I deny it they can contradict me, if they can do so. If I make a statement which is helpful to the side for which I am testifying, and they ask me if I made that statement before at a certain time and place when I had an opportunity of doing it, then if I answer "No, I did not," then it leaves the Court and jury hearing my testimony to consider that in determining the truth or falsity of my statement, and I take it that it is not simply a positive contradiction, but proof of an occurrence in the Grand Jury that would lessen the weight of the testimony of the witness on the stand. That has been my understanding of the rule. Now, I cannot point your honor to a decision supporting that, nor can I to one contradicting it, but that is my view of the law.

Mr. Harris: I could, with a little time, produce your Honor authorities that this is the rule of evidence: that where the circumstances are such that the witness would be reasonably expected to answer the question or disclose a fact that is true, and he kept his silence, that his silence would be admissible against him if he thereafter disclosed that fact.

Judge Martin: Now, Mr. President, the very statement made by counsel is the reason of the rule. That is a secret proceeding down there in the Grand Jury room. Of course, nobody would dispute the statement that if a man is called

on to explain a fact and remains silent it might to a certain extent militate against him, and that very reason is one of the reasons why they would not be permitted to ask the question. That is a secret proceeding down there and this Court is not advised as to any question that was propounded to the witness down there, and the very reason for allowing it for the purpose of impeachment is that the attention of the witness be directed to the time and place and the very conversation inquired about; otherwise they could not impeach him. But to say to the witness, "Did you in the Grand Jury room make such and such a statement?"—without any information as to what question was propounded to him, without any information as to the surroundings there, the subject-matter inquired about, then to say it would be a circumstance against him would be unreasonable and absurd, the rule of impeachment being that the witness is entitled to have his attention directed to the time and place inquired about, the particular conversation or statement inquired about. For that reason we submit, Mr. President, that it would be improper to propound this question to the witness, for the reason that there may be many circumstances why he was not called upon to detail statements in evidence called upon here. If they desire to impeach the witness it is right and proper to direct his attention to the very statement inquired about, and then if he denies it the rule is that he may be impeached, and we most earnestly insist that this would be an injustice to this witness; it would be a violation of every rule of evidence known to the law writers, as we understand.

Senator Bee: Mr. President, would the Chair have the stenographer read the question? I don't know that I caught the question.

The Chair: Yes, sir, I want that done before the decision is made. The Reporter will please read the question propounded to the witness by General Crane.

(Thereupon the stenographer read the question, as follows: "Did you tell the Travis County Grand Jury—you need not answer this until the Court instructs you, because I know what your Grand Jury oath was. Did you tell the Grand Jury that you did not know that fifty-six hundred dol-

lars of the State's money was used to pay the Governor's debt until that moment?"")

Senator Bee: Mr. President, I would suggest to counsel that if they would recall the oath taken by the Grand Jurors, they would reach probably a conclusion. As I remember the oath, the Grand Juror says, the State's Counsel and his own he will keep secret unless required to disclose same in the course of a judicial proceeding in which the truth or falsity of any statement made by the witness becomes an issue. It occurs to me that would cover the question. The witness, of course, is also sworn to keep secret, unless required to disclose the same in a judicial proceeding, in which the truth or falsity of same may be in issue.

The Chair: I have just sent for the Code of Criminal Procedure, to see if there is any authority cited that would be exactly in point.

General Crane: We can pass it for the present, if the Court please, it is not a matter of such importance as to wait.

Q. Now, Mr. Davis, you said you had the combination of the Governor's safe?

A. Yes, sir.

Q. You think that he did not know what it was?

A. I don't think he did, no, sir.

Q. Speak a little louder, please.

A. I don't think so, no, sir.

Q. He frequently had you to open it for his inspection of papers and documents, did he not?

A. Yes, sir.

Q. Frequently? Now, as to what he saw or what he took out of this safe—out of that safe when he opened it, of course, you can not know?

A. When he opened it?

Q. When you opened it for him?

A. I usually got what he asked for.

Q. You usually got what he asked for?

A. Yes, sir.

Q. Well, it was left open until he asked to have it closed, or the file was put away, wasn't it?

A. No, I tried to keep it closed.

The Chair: A little louder, Mr. Davis.

A. It was open, sometimes, at short intervals.

Q. Throughout business hours?

A. No, sir, it was closed after I

had gotten what I wanted out of it.

Q. Well, suppose that he would ask you for file papers out of the safe for his perusal, and yours, do you mean to say you would lock the safe immediately, or wait until you got the file papers back to put them away again?

A. Why, usually I would wait until he finished.

Q. You usually wait?

A. Yes, sir.

Q. Now, you would go on with your other business while he was using those papers?

A. The door of the safe was usually pushed to.

Q. Oh, I understand, but answer my question, please?

A. I usually did that, yes.

Q. You usually did that? Now, of course, you could not tell whether he looked in the safe during your absence from the room, or not, for something else he wanted, could you?

A. I couldn't say as to that.

Q. You could not say as to that? You cannot remember everything he asked for during the course of the two years either, can you?

A. No, sir.

Q. You do not know whether he asked for those particular bank statements or not, do you?

A. He never asked for any of those bank statements until about two months ago.

Q. Until about two months ago?

A. He didn't ask for the bank statements, he told me to bring the papers in of the Canyon City Normal matter.

Q. About two months ago?

A. Yes, sir.

Q. You mean during the session of the Travis County grand jury?

A. Yes, sir.

Q. Well, now, you have told—I believe you stated you did not know what he had when he went down and made that \$1,850 deposit?

A. No, I don't know.

Q. You wouldn't—you couldn't say that, no? Now, when he brought that currency into the office, did you put it into that safe, or did he do it?

A. If it was ever in the safe, I don't know it.

Q. You do not know it?

A. No, sir.

Q. Well, the currency was there for a good long while, wasn't it?

A. In the safe?

Q. In the office?

A. Not to my knowledge, no, sir.  
Q. When did you first find out that that currency was in the office?

A. Which currency?

Q. Any of it, the large body of currency that was delivered to the Governor there sometime during the year, or the session of the Legislature, or immediately after?

A. I only know two instances when there was any currency there.

Q. All right. What were those two instances?

A. One of them—

The Chair: A little louder, Mr. Davis.

A. One was early in April—in fact, they were both in April. I don't know the exact dates.

Q. Well, how much in each instance?

A. One was \$25,000 and the other \$15,000.

Q. Who brought that currency there?

A. I don't know, sir.

Q. You don't know?

A. No, I do not.

Q. He did not let you know that fact?

A. I never asked him and he did not tell me, no, sir.

Q. Where was the currency when you first saw it?

A. In his hands when he gave it to me to be deposited.

Q. Who had just been there?

A. I can't say.

Q. You do not know?

A. I do not know.

Q. Did you know anybody who had been in consultation with him just immediately preceding that?

A. No, sir, I don't.

Q. Now, those sums of money were large sums, weren't they—weren't they bulky?

A. Not so awful bulky, I carried them in my inside pocket.

Q. You carried them in your inside pocket?

A. Yes, sir.

Q. Did you put them in the safe at any time?

A. No, sir.

Q. You did not hear his testimony over in the House, then, that some of it had been there sixty days?

A. I didn't hear that.

Q. Well, now, don't you suppose he had learned the combination in some way and had put it in the safe?

A. As I say, if it ever was in that safe I don't know anything about it.

Q. Was there any other safe place

to keep money there in that office except the safe?

A. I wouldn't keep very much in that safe.

Q. Answer my question, please?

A. None that I know of.

Q. Was there any place that money could be kept?

A. No, sir, no safe or vault or anything like that, no, sir.

Q. That one safe was the only thing that was there approaching a safe?

A. Yes, sir.

Q. What was that, an ordinary fire-proof safe?

A. That was about all that could be said of it.

Q. It was not intended to be burglar-proof, was it?

A. No, sir.

Q. What make of safe was it?

A. I don't recall that.

Q. Was it old or new?

A. Old.

Q. Yes. Now, did you ever see \$15,000, or \$20,000, or \$10,000, or \$11,000 in currency in that safe?

A. I never, no, sir.

Q. At any time?

A. No, sir.

Q. What did the Governor tell you about the money when he handed it to you?

A. The first deposit, the first amount was \$25,000, he handed it to me and told me to deposit it in the American National Bank to the credit of the Houston National Exchange Bank.

Q. Was that all he said about it?

A. That was all.

Q. He did not tell you to say nothing about it?

A. No, sir.

Q. Nor to advertise it?

A. No, sir, he didn't say anything about that.

Q. Well, now, what did he say when he gave you the next deposit?

A. He said, "There is \$15,000, deposit it to my personal account in the American National Bank."

Q. Did he make any other comment about it?

A. No, sir.

Q. Nothing except that?

A. That was all.

Q. You asked no questions?

A. No, sir.

Q. Did you notice the wrappers on any of that money?

A. There were none.

Q. There were none on those two packages?

A. No, sir.

Q. Yes?

A. Nothing but rubber bands.

Q. Rubber bands? Did you count it before you left the office, or wait until you got to the bank?

A. I never counted it, I handed it to Mr. Davis, the vice-president, and watched him count it.

Q. Yes? Why didn't you take it around to the teller's window, in the ordinary place of deposit?

A. It was after three o'clock in the afternoon, and the teller's window was closed.

Q. I see?

A. About 3:15, something like that.

Q. Was your deposit late each time, made at 3:15?

A. The front door was open, but the teller's window was closed; I am not exactly positive as to the exact time, but it was sometime after three o'clock.

Q. I know—each time you made these deposits, it was after three o'clock?

A. That is my recollection.

Q. After banking hours?

A. That is my recollection.

Q. Were you present when Major Littlefield received some money of the Governor at the same time, in the office?

A. No, sir.

Q. Did you deposit currency in any other bank for the Governor except the American National Bank?

A. No, sir.

Q. Did you know—did you see him with any other currency that somebody else deposited for him or he deposited himself?

A. No, sir.

Q. Did you receive no information in the office that he had the other currency there?

A. No, sir.

Q. The \$156,500, you only saw \$40,000, of it?

A. Yes, sir, that is correct.

Q. You did not hear of the other coming in?

A. I didn't know it until I read the papers, after this investigation up here.

Q. Yes?

Senator McNealus: Mr. President, the noon hour having arrived, if counsel expects to have this witness on the stand very much longer, I suggest that it would be very conven-

ient for the Court to rise until 2:00 o'clock this afternoon.

Senator Bailey: Mr. President, will the Senator from Dallas yield?

Senator McNealus: I yield.

Senator Bailey: Won't you make that 2:30, and let us have a meeting on your bill?

Senator McNealus: Well, 2:30 will be satisfactory to me, if it is satisfactory to the Court.

The Chair: The Senator from Dallas moves that the Court now recess until 2:30 o'clock this afternoon. Those in favor of the motion say "Aye," those opposed, "No." The motion prevails, and the Court will recess until 2:30 o'clock this afternoon.

#### In the Senate.

President Pro Tem. Dean in the Chair:

#### Bill Signed.

The Chair, President Pro Tem. Dean, gave notice of signing, and did sign, in the presence of the Senate, after its caption has been read, the following bill:

S. B. No. 16, A bill to be entitled "An Act authorizing the commissioners' court of Dallas County, Texas, to provide a building in the city of Dallas at or near the court house in said county, and to establish therein a woman's rest room or rest rooms of sufficient dimensions for the comfort and convenience of the women and children from the rural districts who are called upon to attend court, or to visit the county site; and appropriate sufficient money out of the general fund of said county to properly maintain said rest room or rest rooms, and to pay the salaries of the matron and janitor, and to provide water, lights and heat for said building."

#### Message from the House.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House

concur in Senate amendments to House Bill No. 8.

Concurs in Senate amendments to House Bill No. 3.

Concurs in Senate amendments to House Bill No. 2.

Respectfully,

BOB BARKER.

Chief Clerk, House of Representatives.

#### Recess.

At 12:05 o'clock p. m. the Senate, on motion of Senator McNealus, recessed until 2:20 o'clock p. m. today.

#### After Recess.

(Afternoon Session.)

President Pro. Tem. Dean in the Chair.

#### Personal Messenger to Lieutenant Governor.

The Lieutenant Governor here announced the appointment of Robert Lunsford as personal messenger under authority of the Senate.

#### Message from the House.

Hall of the House of Representatives, Thirty-fifth Legislature, Third Called Session.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 10, A bill to be entitled "An Act to amend the special road law of Cass County, Texas, enacted by the Regular Session of the Thirty-fifth Legislature, 1917, which became effective June 2, 1917, same being an Act to create a more efficient road law for Cass County; making the county commissioners ex officio road supervisors, defining their duties and fixing their salaries; 'An Act to create a more efficient road system for Cass County, Texas, and defining the powers and duties of the commissioners' court of said county relative to roads and bridges of said county, and making county commissioners of said county ex

officio road supervisors of their respective districts, etc., and declaring an emergency.'"

H. B. No. 18, A bill to be entitled "An Act to amend Sections 1, 2 and 6, Chapter 4, of the Special Laws of the Regular Session of the Thirty-fifth Legislature, 1917, being an Act to create a more efficient road law for Llano County, Texas, etc."

Respectively,

BOB BARKER,

Chief Clerk, House of Representatives.

#### Bills Read and Referred.

The Chair, President Pro Tem. Dean, had referred, after their captions had been read, the following bills:

H. B. No. 18, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 10, referred to the Committee on Roads, Bridges and Ferries.

#### In Court.

#### PROCEEDINGS.

Friday, September 14, 1917.

#### Afternoon Session.

Pursuant to recess, the Senate, sitting as the High Court of Impeachment, reconvened at 2:30 o'clock p. m.

The Chair: Gentlemen, the hour has arrived for the convening of the Court. I would like for the members of the Court to take their places so that counsel may proceed with the introduction of testimony.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: Quite a number of the Senators are in the Secretary's office holding a committee meeting. I might suggest that the Chair send a page and have them notified.

The Chair: Yes, I will have them notified.

Senator McNealus: Mr. President.

The Chair: The Senator from Dallas.

Senator McNealus: Before the Court proceeds with this hearing, I would like to suggest to the President of the Senate—President of the Court and to the members of it, that I believe it would be for the convenience of all concerned that the Senate, as a Court, at 4:00 o'clock this afternoon adjourn until 10:00 o'clock Monday

morning. I think it would be for the convenience of everybody connected with the trial to have that the order of the Court. I move that when the Court finishes its work this afternoon, it recess until 10:00 o'clock next Monday morning.

The Chair: The Senator from Dallas moves that when the Court recesses this afternoon, it do so until 10:00 o'clock Monday morning.

Senator Hopkins: Mr. President, I make a point of order. I do not think that should be heard at this time. Let's wait until the proper time to determine that.

The Chair: Sir?

Senator Hopkins: I make a point of order, we cannot determine that at this time.

Senator McNealus: Mr. President, I call the attention of the Chair to the fact that this is not an order of the Senate, but an order of the Court. Some of the members want to make their reservations, and they cannot do it until they know whether the Court is going to recess until Monday morning or not. I am not asking that the Senate adjourn to that time, but that is a matter to take up when the Senate is in legislative session.

Senator Hudspeth: I want to make this statement, it is evident that a number of the Senators will not be here tomorrow, and the jury ought to be complete during this hearing; and I think it is also evident that we will finish up this trial next week, and I want to second the motion of the statesman from Dallas.

Senator Gibson: Mr. President.

The Chair: The Senator from Fannin.

Senator Gibson: I just desire to say that I have conferred with quite a number of the Senators, since the Senator made his motion, and I believe it is the consensus of opinion that we won't work tomorrow, that seems to be the idea.

The Chair: The Chair will put the motion, then.

Senator McNealus: Mr. Chairman, just one suggestion. I know from talking around here that certain parties here want to make their reservations, and they cannot do it until they know whether the Court is going to recess or not.

The Chair: The Senator from Dallas moves the Court to recess at 4:00 o'clock until 10:00 o'clock Monday morning.

Senator Strickland: Mr. President.

The Chair: The Senator from Anderson.

Senator Strickland: I offer a substitute for the motion of the Senator from Dallas. I move that the Court recess, without stating at 4:00 o'clock this afternoon, until Monday morning.

Senator McNealus: Well, that is practically my motion.

The Chair: I will put the substitute. The Senator from Anderson moves that the Senate recess this afternoon until 10:00 o'clock Monday morning. Those in favor of the motion say "Aye," those opposed, "No." The motion prevails.

The Chair (To counsel): Gentlemen, we are ready to proceed.

Mr. Hanger: Where is Mr. Davis? Mr. Sergeant-at-Arms, call Mr. Davis—I thought he was here.

Thereupon, Respondent's witness,

J. H. DAVIS, JR.,

resumed the witness stand, and in answer to questions propounded, further testified as follows, to wit:

The Chair: All right, gentlemen, if you are ready?

Mr. Hanger: Just one moment, General. (After a moment.) All right, go ahead.

Cross Examination.

Resumed by General Crane.

Q. Mr. Davis, you stated that when that large check was drawn on the 27th of April, 1916, it took all of the funds in the Governor account including the Adjutant General's fund of \$3050, and \$750 due to the Good Roads or Red Cross?

A. King's Highway.

Q. King's Highway? And created an overdraft of \$1846—or \$47.50, and adding the three items together made the \$5600—is that correct?

A. That is correct, yes, sir.

Q. Yes. Now, the deposits made after that date were exhausted by the checks drawn for good roads and other things, other than the Normal School?

A. Yes, sir, practically exhausted.

Q. Except about \$57?

A. Yes, sir.

Q. Now, since then, you have exhibited receipts here, or triplicate warrants issued by the Comptroller, showing certain deposits to have been made by James E. Ferguson since the House adjourned, or since

the articles of Impeachment were presented?

A. Yes, sir.

Q. And those items thus paid to Governor Hobby, or into the Treasury either, were paid out of the Governor's personal funds, did you state?

A. Yes, sir.

Q. Yes. So, all of the money paid into the Treasury, or paid to Governor Hobby, covering the King's Highway fund, or Red Cross fund, or Flood Sufferers' fund, or whatever items they were, were paid out of his personal funds?

A. Yes, sir.

Q. For that reason you stated that the \$57, and some cents that showed in the balance, in the account of the Governor, is there now, isn't it?

A. Yes, sir.

Q. Yes. You stated also that the letter written on the 20th of January, 1915, in which he requested that no new loans be made of that deposit, that you had preserved carbon copies of those?

A. That was the custom, yes, sir, at that time.

Q. That was the custom? You did—you have examined your records since the noon adjournment, have you not?

A. Yes, sir.

Q. Your letter files?

A. Yes, sir.

Q. And you have found carbon copies of other letters written on that 20th day of January, haven't you?

A. Yes, there are several of them, yes, sir.

Q. But you failed to find a carbon copy of this other—of this letter which was read in evidence?

A. Yes, sir, I failed to find it.

Q. Did not the porter bring the box which was supposed to contain all of those carbon copies?

A. Yes, sir, he did.

Q. Was there any letterpress copy found there of this letter of the 20th?

A. No, sir, we had no letterpress on that day.

Q. It began the day afterward?

A. I think so, yes, sir.

Q. Yes.

General Crane (to Mr. Hanger): Let me have that file?

Mr. Hanger: Yes, sir (handing file of papers to General Crane).

Q. Did you have the same type-

writer covering this period—did you do the typewriting work yourself?

A. Yes, sir.

Q. Did you get those bank statements that I asked you for?

A. You asked me for one from the American National Bank on April 27th, I believe, 1916.

Q. Yes, I think so.

A. I didn't find any such statement as that.

Q. Did you find any statement from the American National Bank between April 27th and August 31st?

A. Yes, sir. Here is one on June 5, 1915.

Q. June 5th? Is there a letter accompanying it?

A. No, sir, I didn't find any letter.

Q. This shows the balance of your overdraft at that time—the \$1,847.50, doesn't it?

A. Yes, sir, that is correct.

Q. Where did you find this (indicating paper)?

A. Among all those papers which I had turned over to the Governor of the Canyon City Normal papers.

Q. When did you turn them over?

A. About two months ago.

Q. Where did you keep them—in the safe?

A. Yes, sir.

Q. You kept all of your letters in the safe—copies?

A. No, sir, not letters.

Q. You kept your statements in the safe?

A. Yes, sir.

Q. And is this the only one that you could find?

A. No, sir; he has several more somewhere, but that—no statement that I could find under date of April 27th.

Q. Yes? Well, was there any other statement between April 27th and June 5th?

A. Not that I could find, no, sir.

Q. Was there any statement between June 5th and August 31st?

A. I don't recall any.

Q. August 3rd it was?

A. I never found any, no, sir.

Q. Do you recall having seen this statement before you pulled it out of the papers today?

A. No, sir. I may have seen it, I don't know.

Q. But if you turned it over to the Governor, you must have had them to put them in the files, didn't you?

A. I think so, yes, sir.  
Q. Either you or the Governor were handling them, weren't you?

A. Yes, sir.

Q. Do you know how you happened to get this statement—did it come to you through the mail, or was it delivered to you by the porter when he did your errands to go to the bank?

A. No, sir, I don't recall—it might have been that way.

Q. Isn't it true that the porter usually brought you your statements from the bank?

A. No. Sometimes I went for them myself.

Q. From the Austin bank? Sometimes you went for them yourself?

A. Yes, sir.

Q. Yes. Did they send notices of the overdrafts, in addition to those statements showing the overdrafts?

A. I don't know, sir, I don't remember any, didn't see any.

Q. From any bank?

A. It is the usual custom, yes, sir.

Q. The usual custom is, not only to send you a statement, but to give you a notice to cover, isn't it?

A. Yes, sir, that is the custom that prevailed in our bank.

Q. Now, wasn't there accompanying this statement a check?

A. Appears to have been.

Q. Accompanying this statement? Sir?

A. Seems to have been, yes, sir.

Q. Have you those checks now?

A. No, sir. I had them here yesterday, I believe—some of the Senators took them, I think, looking at them.

Mr. Hanger: We lent them to Senator Caldwell, Senator Caldwell has them.

General Crane (examining checks): I guess they are all here.

Mr. Hanger (to Senator Caldwell): Are they all there?

Senator Caldwell: Yes, they are all there.

Mr. Hanger: They are all here, he says.

Q. Now, Mr. Davis, to refresh your memory, after having seen the statements, are you not now quite sure that you must have heard of this overdraft in the Governor account?

A. It may have been—I don't recall it.

Q. You do not recall it?

A. No, sir.

Q. Did you draw all the notes for the Governor to sign?

A. No, sir.

Q. Did you attend to his private affairs, as well as his gubernatorial account, and all that?

A. Those that came to me, yes, sir, I attended to them to a very large extent.

Q. Well, just what of his private affairs did you attend to?

A. Well, I paid most all of his bills for one thing, and then I kept all of his papers, and if anything came due and I knew it, why, I would pay it for him.

Q. Were you paid any extra salary for the personal services rendered him?

A. No, sir.

Q. Your salary as assistant private secretary—or secretary, was paid by the State, of course?

A. Yes, sir.

Q. You did not—did you write any notes for the Governor in these currency deposits?

A. No, sir.

Q. Did you know that he carried to the Temple State Bank sometime in April \$35,000 in currency in his pocket?

A. No, sir.

Q. Did you know that about the same time he carried to Clifton, to Mr. Butler's bank, \$7,500 in currency?

A. No, sir.

Q. Did he keep a safety deposit box in any bank anywhere in the city of Dallas—or Austin—of which you have any knowledge?

A. Not that I ever had any knowledge of, no, sir.

Q. Did he keep one anywhere else of which you have any knowledge?

A. No, sir.

Q. Now, you signed a note of \$37,500 for the Governor, didn't you?

A. Yes, sir.

Q. You secured that with collateral that he furnished you?

A. That is true.

Q. You had no personal indebtedness that that note evidenced, did you, except a nominal one of signing that note?

A. That was understood by the directors, to take up part of that over line of the Governor's, yes, sir.

Q. It was for no debt of yours?

A. No, sir.

Q. It was for the over line of the Governor, and his corporation, which he owned?

A. Yes, sir.

Q. I believe you are a director in that corporation, aren't you?

A. Yes, sir.

Q. You simply hold a nominal share of stock?

A. That is true, yes, sir.

Q. You do not own the stock either, do you?

A. It is carried by me, yes, sir.

Q. Carried by you?

A. Yes, sir.

Q. You do not mean you ever acquired—I don't think it makes any difference as a lawyer whether you owned it or not—have you paid for the stock, or does it really belong to him?

A. It really belongs to him, yes.

Q. It really belongs to him, yes? So, really, he and Mrs. Ferguson own the entire corporation?

A. Yes, sir.

Q. Yes. Who is the other director besides himself and his family?

A. Mrs. Ferguson is one and Mr. J. H. Wagner is one, and I am one.

Q. Who is J. H. Wagner?

A. He is in the Secretary of State's office, formerly he lived in Temple.

Q. I see. Is he in the Secretary of State's office now?

A. He has a place there, yes, sir.

Q. Yes? Do you know whether he holds the stock just like you do?

A. Yes, sir, the same way.

Q. The same way? Now, when the grand jury met on the 20th of July, your attention then was certainly called to the fact that this \$5,600 had been paid out of the government funds, wasn't it?

A. Has it been decided that I should answer that question?

Q. I am asking you that question?

A. Yes, sir, it was.

Q. The Governor did not pay it, however, until these Articles of Impeachment were presented?

A. Pay what? The \$5,600?

Q. Did not contribute the rest of the money to cover the items of the account down there until the adjournment—or until the Articles of Impeachment were presented?

A. He never did it until he gave it to Governor Hobby.

General Crane: That will do. By the way, did you find any other statements—we asked for some others?

A. Here is one from the Temple State Bank, and then one was in evi-

dence yesterday, which the Governor has, are the only two of the Temple State Bank that I could find.

Q. This—yes, I recall there is something I omitted. You read in evidence this morning a memorandum there—you offered a memorandum or notations of some kind showing a description of all the checks that had been drawn by Governor Ferguson against that fund, as you thought. Where did you find the memorandum in your office from which that was furnished?

A. That was this book (pointing to book on table at witness' side).

Q. That book?

A. Yes, sir.

Q. Let me see that, please. (Witness hands book to counsel.)

Mr. Hanger: Where is the typewritten statement, Mr. Davis? I think I gave that to the stenographer—I gave that to the stenographer, General. We will get that.

The Witness: What is that, the message?

Q. What did you make that typewritten statement from?

A. Oh, in the message—I didn't get what you were talking about.

Mr. Hanger: No, the chicken salad items.

Mr. Harris: No, he is asking for some others.

Q. No, didn't you have a list of all the checks drawn—that is the question I asked—against that fund?

A. They are in that book.

Q. They are in that book?

A. Yes, sir.

Q. Now, will you give me the page whereon the list of checks is shown.

Mr. Hanger: General, pardon me; I don't mean to interrupt you—as you know, there is another typewritten list of seven or eight pages, that I counted, that I turned over to the stenographer.

General Crane: That is the items from the Comptroller's office.

Mr. Hanger: No, that is the items he read as being on the message. I may be wrong. There are two that appear here that are not in the statement. I think there are two or three in there (pointing to book) that are not in the statement.

Q. When were these entries made, at the time the checks were drawn, or afterwards?

A. Usually were made at the date the check was given, but if—sometimes they may have been a day or two later,

and I took the deposit warrant itself and entered it from that.

Q. Yes. This is a list of checks that were drawn on the American National Bank to pay for the building?

A. Yes, sir.

Q. Yes, I see. And the entries were made sometime near the time that those checks were drawn?

A. Yes, sir.

Q. I see, yes. But have you a list of the other smaller checks drawn by the Governor—for instance, it is in evidence that he checked out some of the money deposited at places and put it in other banks, for instance, he put a deposit in the Houston Exchange National Bank. Have you an entry on your books showing when that check was drawn?

A. No, sir, I have not.

Q. Have you any entry in your book showing the statement when the money was delivered to the Bastrop bank?

A. No, sir, it would be shown by the letter, that's all.

Q. There was no—how it that?

A. It would be shown by the letter.

Q. Well, suppose the check was handed to an officer of the bank and he was asked to take it as a deposit,—would there be a letter there then?

A. No, sir, I don't think so.

Q. Then there was no entry of those matters at all?

A. No, sir.

Q. No entry of the deposit sent to Houston?

A. Just the \$2,500.

Q. Just the \$2,500?

A. One.

Q. One. No entry of the \$2,500 sent to the Heidenheimer Bank?

A. No, sir.

Q. And no entry of any other sent to any other bank?

A. No, sir.

Q. I see. Well, how would you keep a record in your office of those transactions?

A. I didn't keep any, only by the files of the letters, and as I have explained, the receipt or copy of receipt which the Governor gave Governor Colquitt, showed the entire amount which he got, and I knew that that was all there was there due to that fund.

Q. Yes, and he simply preserved a list of the checks made payable to the Treasurer?

A. That is all.

Q. That is all you have, yes.

General Crane: That is all.

# Re-direct Examination By Mr. Hanger.

Q. Mr. Davis, they asked you this morning about the escrow account. Was that ever called for until the first day of June, 1917?

General Crane: Senator, one question I forgot to ask. I will just ask that now.

Mr. Hanger: Wait, I will just ask this one question and then turn him back to you.

A. That may be true; I don't know.

Q. You don't know about it. All right.

Mr. Hanger: A gentleman asked me to ask that question.

General Crane: Did you find that \$1850 check, personal check of the Governor's?

Mr. Hanger: We were just going to ask him about it.

The Witness: Here it is.

General Crane: We offer this in evidence as a part of this witness's testimony.

Mr. Hanger: So do we, so do we, yes, sir.

The Chair: I have some questions from some Senators that I might read—

Mr. Hanger: Well, the General had a question he wanted to ask the witness.

The Chair: Oh, excuse me.

General Crane: I was going to read this.

The Chair: Excuse me.

General Crane: (Reading check just offered in evidence which is as follows):

"Austin, Texas, 8-2, 1916. (That is, August 2nd.)

"The American National Bank

"Pay to the order of American National Bank, \$1850. Eighteen Hundred and Fifty Dollars, To Governor Account. Jas. E. Ferguson."

General Crane: It is marked paid—cancelled in the usual way.

The Chair: All right. These questions by Senator Caldwell, Listen and answer them as they are read, Mr. Davis. First (reading): "What money was the deposit of \$1297.50 made to Jas. E. Ferguson, Governor, in December, 1915, to the credit of Jas. E. Ferguson, Governor."

General Crane: That is, in the Temple Bank.

The Chair: It doesn't state the bank.

General Crane: I know—

Mr. Hanger: That is correct, that is the Temple Bank.

The Chair: I will read the question again, Mr. Davis, so you will understand it. (Reading.) "What money was the deposit of \$1297.50 made to Jas. E. Ferguson, Governor in December, 1915, to the credit of Jas. E. Ferguson, Governor?"

The Witness: That was a part of the \$2000 sent to the Governor by Mrs. Lipscomb Norvell, at Beaumont, and a part of the Kings Highway fund.

The Chair: All right, the second (Reading): "Who drew the check for \$9932.18 on April 13, 1916, on the account of Jas. E. Ferguson, Governor, in the Temple State Bank—where is this check?"—By Caldwell.

The Witness: If my recollection is right, it is not a check but a charge ticket, being remitted to the American National Bank from Temple, and no statement from the Temple State Bank has been rendered since that time against the Governor's account, and they should have the charge ticket.

The Chair: Number three, by Senator Caldwell (reading): "How was the amount \$9,932.18 arrived at by you as the proper balance to be drawn from the Governor's account in the Temple State Bank? Have you a copy of the letter directing this remittance by that bank?"

The Witness: I would have to look for the copy of the letter; I perhaps have it. It was arrived at, I guess—I don't know whether I asked the bank what the balance was and deducted the \$1,297 from it, or whether taking the bank's statement and deducting that, I don't recall; but it was deducting the \$1297 which was in Temple, from the entire balance which remained in that account, which would leave the amount in Temple due the Canyon City Normal fund.

The Chair: The fourth (reading): "Who discovered the error of \$6,156 charged against Jas. E. Ferguson's special account in the Temple State Bank in December, 1915, corrected in January, 1916?"

The Witness: When the investigation was on in the House I asked the Temple State Bank to send me

a copy of the Governor account and the Jas. E. Ferguson special account, and in that account it showed a charge in December of \$6,156.

Senator Caldwell: This item was corrected in January, 1916?

The Witness: Well, I don't know anything about that. I just saw it on the statement, and didn't know of any reason why it should be in the Jas. E. Ferguson special account.

Senator Caldwell: Mr. President, I think the witness misunderstood the question.

The Chair: Yes, let me read the question again, Mr. Davis, and see if you answered it fully.

Senator Caldwell: If he doesn't know, he can say so.

The Chair (reading): "Who discovered the error of \$6,156 charged against Jas. E. Ferguson special account in the Temple State Bank in December, 1915, corrected in January, 1916?"

The Witness: I don't know who discovered the error and made the cross entries on the books. I only knew of it in the last two or three weeks.

The Chair: All right. This question by Senator Lattimore (reading): "Who is George D. Marshall and what was he doing in 1916, for which seven checks for expenses were paid?"

The Witness: He was an engineer—a highway engineer, and there was some arrangement between the Governor and Mr. Colp, the secretary of the Texas Good Roads Association, whereby he would go out in the counties and survey these various good roads, as I understand it, and they were for expenses while he was on those trips, and it was pending the passage of legislation, as I understand it, to meet the requirements of the Federal Government for State aid from the Highway Department—I believe that's it, I may not be absolutely certain, but—

The Chair: This question by Senator Henderson (reading): "How much money did Governor Ferguson deliver to Governor Hobby representing the amount due on the Canyon City funds?"

The Witness: None.

The Chair: This is by Senator Caldwell—

Senator Hudspeth: I didn't catch the answer to that last one.

The Chair: None, he said.

Senator Hudspeth: None?

The Witness: None of the Canyon City fund. It was all paid before that.

Mr. Hanger: Well, let me ask him. I think—may I interrupt, to ask him how much—probably, what Senator Henderson would like to have answered in that connection, what was the total amount delivered to Governor Hobby by Governor Ferguson?

Senator Henderson: Yes, that is it.

Mr. Hanger: That comes nearer it. His answer was that it did not belong to the Normal fund, because it had been paid for.

Senator Henderson: How much is the total amount, that is what I wanted?

Mr. Hanger: Yes, how much was the total?

The Witness: \$4,693.50.

The Chair: All right, I will read this question by Senator Caldwell (reading): "Will you please locate and furnish us carbon of your letter directing the remittance of \$9,932.18 by the Temple State Bank on April 13th, 1916?"

The Witness: I will look for that.

The Chair: This by Senator Dayton (reading): "Mr. Davis, was the sum of \$5,600, with which the Governor's note, at First National Bank of Temple, was paid, ever returned to the State? If so, when?"

The Witness: It would appear now that it was—that \$1,850 of it was returned in August, 1916, and the rest when it was delivered to Governor Hobby.

The Chair: This is by Senator Lattimore (reading): "The check for \$6,156 drawn by you on the Temple State Bank about the last of November, 1915, to the State Treasurer, account Canyon Normal fund, appears from the endorsements on the back to have been deposited by the Treasurer in the American National Bank on December 1, 1915, and it is stamped 'paid' by the Temple State Bank on January 12, 1916, nearly six weeks after it was given. Do you know why it was not paid sooner, and did you have any advice from the Temple State Bank as to why same was not paid sooner by that bank?"

The Witness: No, sir, I had none.

Senator Hudspeth: Just a min-

ute, Mr. Chairman, I am writing a question.

The Chair: Senator Hudspeth asks the indulgence of the Court while he writes a question.

Mr. Manager Fly: Mr. President, while you are waiting for that question—

The Chair: Yes, sir.

Mr. Manager Fly: I have just found that I am in possession of a paper that I think was handed me by the Governor, handed me as Chairman. I would like to tender it into the Court; I don't know what else to do with it. I was just running through some memoranda and found it in my pocket just now.

The Chair: All right, Mr. Fly.

General Crane: This is the \$35,000 deposit check which they furnished us in the House.

Mr. Hanger: Yes, sir.

General Crane: We will offer this in evidence as a part of this hearing here.

Mr. Hanger: That's all right, no objections.

The Chair: Now, while we are waiting—is there any objection?

Mr. Hanger: Not a bit, not a bit.

The Chair: You might offer this while we are waiting for this question.

General Crane: Yes, sir (reading): "Deposited with Temple State Bank for account Jas. E. Ferguson, 4-25-1917, \$35,000. T. H. Heard."

Senator McNealus: What date was that?

General Crane: 25th of April, 1917.

The Chair: "Did Governor Ferguson"—Mr. Davis, this is a question that Senator Hudspeth has written; I will read it to you and want you to answer it: "Did Governor Ferguson, as far as your knowledge goes, know anything about the error as to the \$5600 being charged to his special account at the Temple State Bank at the time said charge was erroneously made, and if not when did he ascertain that said error was made?"

Senator Hudspeth: I want you to state that fully in your own way.

Senator Johnson of Hall: Mr. President, don't that mean the Governor's account instead of "Special?"

Senator Hudspeth: Well, everybody understands it.

The Chair: I will change it to make it read "Governor's account."

Senator Hudspeth: Yes, sir. I want to know if he knew anything about it at that time, and if not, when he learned about it?

A. So far as I know, he had no knowledge of it until about two months ago. He called me to his office and told me to bring all the papers I had with reference to this Normal account, and I gave them to him; then he went through there and found that statement of the Temple State Bank and those charge tickets and asked me what that was, and I told him I didn't know what note it was, that I had only recently learned of it myself.

Senator Hudspeth: Did he state to you he had never heard of it before?

A. He said he never saw it before.

Senator Hudspeth: Well, I would like to ask another question.

Mr. Hanger: Any other questions?

The Chair: Explain as fully as you can, Mr. Davis.

Senator Hudspeth: Any conversation that took place between him and the Governor, I think, would be admissible.

A. Well, he asked me what it was, as I say. I told him that I didn't know what it was, that it was a charge ticket for a note at the First National Bank at Temple, and he said that's the first time that he ever saw it.

Mr. Hanger: Are there any other questions. I want to ask one right here.

The Chair: Go ahead.

Re-direct Examination  
By Mr. Hanger.

Q. Was the Governor before the Grand Jury?

A. I am informed that he was, yes, sir.

Q. You were not there when he was at the Grand Jury, of course. When was this with reference to the time he was before them?

A. It was in the afternoon.

Q. After he had been before them or before?

A. After.

Q. Now, you say about two months ago. Whatever date it was that he appeared before the Grand Jury, it was that date?

A. Yes, sir, on a Saturday afternoon, as I recall. I don't know the exact day of the month, but it was in July on a Saturday.

Q. And while you have used the expression here three or four times that it was about two months ago, you mean by that it was the time he was before the Grand Jury?

A. That's true, yes, sir.

Q. Mr. Davis, you have been asked here about the ninety-nine hundred—is it ninety-nine hundred?

A. Remitted to Austin?

Q. Yes, that ninety-nine hundred?

A. I had that here somewhere just now.

Mr. Hanger: What was that amount, Senator Caldwell? You called it just now.

Senator Bee: He has gone to the telephone.

The Chair: It was \$9932.18.

Q. Now, Mr. Davis, was or not that balance based on the assumption and belief that the \$5600 had been remitted to Austin?

General Crane: I object to that. That is leading, and besides that it could not have been based upon that assumption, as the figures show.

Mr. Hanger: That's a matter of argument.

The Chair: It is leading.

Mr. Hanger: All right.

Q. Now, the statement you introduced here yesterday afternoon showed that the \$5600 had been remitted to Austin?

A. Yes, sir.

Q. Had it been remitted to Austin?

A. It appears now that it had not.

General Crane: What statement is that?

Mr. Hanger: The Temple State Bank.

A. The Temple State Bank, containing the charge tickets.

General Crane: Accompanied by the charge tickets?

A. Yes, sir.

Q. If the \$5600 had been remitted to Austin as the statement showed, what would have been the balance at that time?

General Crane: Mr. President, I object to that, because I don't think the statement shows that.

Mr. Hanger: Well, the statement does show it.

General Crane: It shows the

\$5600, but I am not at all sure it says remitted to Austin.

Mr. Hanger: Well, I am sure, so we will pass it up.

General Crane: No, we will pass it up to the Court.

Mr. Hanger: I want the question answered. I don't want to be interrupted with the statement that it does not when it does.

A. At the time that statement was rendered there was a balance, as I now recall, of \$25,000 in the fund, and ninety-nine hundred dollars was remitted some time the following year.

Q. If the \$5,600 had been remitted to Austin, what would have been the amount of the balance at the time the \$9,932.18 was remitted?

A. If it had been remitted it would have been the same thing.

Q. That's the point.

Mr. Hanger: I will introduce it again, Mr. President, so that hereafter there can not be any controversy:

"June 11, remitted to Austin \$5,000; July 7, remitted to Austin \$10,000; July 10, remitted to Austin \$5,000; July 23, remitted to Austin \$5,600."

Q. Did I read that correctly?

Senator Bee: What was that date?

Mr. Hanger: July 23. It should be August 23.

A. The charge ticket is August 23.

Q. I say, did I read that statement correctly?

A. Yes, sir.

General Crane: Yes, I see you did—I give you credit for that.

Mr. Hanger: I don't ask for credit for being correct.

Q. Now, you said there was some amount that was deposited in the Temple State Bank as a part of the King's Highway fund yet in the Temple State Bank?

A. Yes, sir, that is true.

Q. Well, now, you said just now in response to the General's question that fifty-seven dollars and some cents in the American National Bank since the payment to Governor Hobby by Governor Ferguson was the Governor's money?

A. That is true, yes, sir.

Q. Whose is this eight hundred odd dollars balance in the Temple State Bank?

A. That belongs to the Governor.

Q. Although it appears it is in the Governor's account there?

A. That is true.

Q. Now, Mr. Davis, was this check—this is the check that was requested

of you by General Crane this morning?

A. Yes, sir.

Q. That you went and found and here produced?

A. Yes, sir.

Q. Dated August 2, 1916?

A. Yes, sir.

Q. Signed by James E. Ferguson?

A. Yes, sir.

Q. Marked to the Governor's account?

A. Yes, sir.

Q. For the sum of \$1,850 and payable to the order of the American National Bank?

A. Yes, sir, that is correct.

The Chair: Gentlemen, I have a question here by one of the Senators. I understand counsel for the Respondent is through with the witness.

General Crane: No. I want to ask him some further questions—Oh, I thought he said counsel for the Proponents.

The Chair: By Senator Caldwell: "When did you first see the statement of the Temple Bank showing that \$5,600 had been remitted to Austin?"

A. I don't recall the exact date, but it came in due course after the first—the 3d, or something.

Senator Caldwell: About the time it was received.

A. Just about that time.

The Chair: Any other questions?

Mr. Hanger: May I ask, was that—when did the Governor see it or did you see it?

Mr. Henry: When did he see it?

Mr. Hanger: All right.

The Chair: This question by Senator Caldwell: "Is it not a fact that when you read this statement you knew that you had not directed any such remittance to be made?"

A. It didn't occur to me at all. I didn't think about it. It said in July.

General Crane: Are you through?

The Chair: That's all on the Chairman's table.

#### Re-cross Examination

By General Crane.

Q. That note or that charge check covering that fifty-six hundred dollar item plainly shows that it was a note at the First National Bank of Temple, doesn't it?

A. It says that, yes, sir.

Q. Five thousand dollars, and then the next line below it "Interest \$600; note mailed to Austin," doesn't it?

A. I believe that is what it says, yes, sir.

Q. Was that note mailed to you?

A. I never got the note, no, sir.

Q. You didn't read it at all?

A. No, sir.

Q. Now, on that statement the words "Sent to"—or "Remitted to Austin" don't appear except by the ditto marks below, does it?

A. I believe that is correct.

Q. You took that and didn't take the entries in pen and ink showing how that fifty-six hundred was applied?

A. No, sir, I never read the items minutely.

Q. Never read the items at all?

A. No, sir.

Q. What did you want with it?

A. Well, I had no reason for it, only just to have it there on record in the office so if any question arose I would have it.

Q. Now, this charge ticket was fastened to the statement at the time you received it?

A. That's true, I think.

Q. Yes. It was not detached until the hearing over in the House?

A. Yes, sir.

Q. Well, it was detached—you took it down before the grand jury?

A. Yes, sir.

Q. Up to that time it had been attached to that statement?

A. So far as I have any knowledge, yes, sir.

Q. When was it first called to your attention that the Governor had used his private funds to pay the overdraft in the American National Bank?

A. The first time I have any recollection of that was when I went before the Travis County grand jury.

Q. Didn't know it until then?

A. That's the first I recall of it, yes.

Q. That was one part, then, of the Governor's private business he didn't commit to you?

A. He never said anything to me about it that I recall.

Q. Yes. Now, as a business man, do you not know that it was impossible for Governor Ferguson to find it necessary to deposit \$1,850 in the Governor's account to meet that overdraft without knowing that the overdraft had been made by that big check?

Mr. Hanger: That's an argument.

General Crane: I want to know if he does not know that that is a fact.

Mr. Hanger: We object to it as an argument.

The Chair: It seems to the Presiding Officer that he would not know it any better than any member of the Court.

General Crane: Well, probably not as well as a member of the Court, but still the Presiding Officer may be right. I accept that.

Q. Did the Governor ever inquire of you as to how those overdrafts had been created?

A. Those overdrafts—which do you mean?

Q. I mean the ones in the American National Bank in the Governor's account.

A. No, sir, not that I recall.

Q. Never asked you a question about that?

A. He may or he may not; I don't recall that he did.

Q. How about your memory—isn't it ordinarily good?

A. I think so.

Q. Did you make a search for that note since the adjournment at noon?

A. Yes, sir, I did.

General Crane: That's all.

#### Re-direct Examination

By Mr. Hanger.

Q. You didn't find it?

A. No, sir, I didn't.

Mr. Hanger: That's all.

The Chair: Here is a question by Senator Hudspeth: "Mr. Davis, was there anything in that statement different from other statements you had received to attract your attention, especially to the \$5,600 item?"

A. No, sir, I don't recall anything that would specially—

Senator Hudspeth: I will ask, with the Chairman's permission, was there anything different from the statements he had been receiving to call attention to that \$5,600?

A. No, sir, it wouldn't; it was just the ordinary statement from the bank.

The Chair: Here are two questions by Senator Henderson. First: "Have you seen the \$5,600 note since it was paid off? If so, when was it, and do you know where it is now—can you get it?"

A. No, sir, I have never seen that note to my knowledge. I have looked for it since noon. General Crane asked me to look for it, and I

did, but failed to find it, and have no recollection of ever seeing the note.

The Chair: Second question by Senator Henderson: "Have you asked the Temple State Bank anything about the whereabouts of the note?"

A. No, sir, I have not.

The Chair: This question by Senator Bee: "When you received the charge notice from the Temple State Bank that the note for \$5,600 had been mailed by the Temple State Bank to the Governor did you make any effort to ascertain what had become of the note referred to?"

A. At the time the statement was rendered I did not read it, and therefore did not make any investigation as to where the note was. I didn't notice it saying anything about any note.

The Chair: Any other question, gentlemen? If not, the witness will be excused. You are excused, Mr. Davis.

The Chair: Gentlemen, are you ready to proceed further?

Mr. Hanger: Just a moment, Mr. President?

The Chair: Mr. Hanger.

Mr. Hanger: The next witness we have will take two days at the least calculation. It is the Respondent. In view of the suggestion by the Senator from Dallas to recess at 4 o'clock, it occurs to us that out of consideration for that suggestion or motion we possibly ought not to start for thirty minutes or such a matter. We would prefer as a matter of preference, and we do not urge that upon the Court, that it be not cut in two. We think that is one that everyone present will recognize, that that is not a good course to pursue.

The Chair: Gentlemen, you have heard the suggestion of counsel for Respondent.

Senator McNealus: Mr. President?

The Chair: The Senator from Dallas.

Senator McNealus: In view of the statement of counsel, I move that the Court rise and recess until next Monday morning at 10 o'clock.

(The motion was put and carried).

Thereupon at 3:30 p. m., the Court recessed until 10 o'clock a. m. Monday, September 17th, 1917.

### In the Senate.

President Pro Tem. Dean in the chair at 3:32 o'clock p. m.

### Simple Resolution No. 18.

The Chair laid before the Senate, on request of Senator Clark,

S. R. No. 18, Providing for full investigation of the State University. (See the Journal for the tenth day, September 13, 1917, for the resolution in full.)

Senator Westbrook offered the following:

### Substitute Resolution.

Resolved, That a committee of eleven Senators be appointed by the presiding officer of the Senate, whose duty it shall be to sit during the recess of the Senate after final adjournment of the current called session and any other called session of the Thirty-fifth Legislature, that shall succeed it, for the purpose of making a thorough investigation of the affairs of all departments of the State government and every State institution, said committee to report to the first regular session of the Thirty-sixth Legislature or to any called session of the Thirty-fifth Legislature, if the investigation here provided for shall have been concluded in time for the submission of such report. This committee is hereby authorized to appoint such number of subcommittees as may be necessary, from among its membership, to make investigations of separate departments or institutions of the State government and report their findings to the full committee, as such committee may order and determine. Said committee and its subcommittees are hereby authorized to sit and co-operate with any committee or subcommittee of the House of Representatives that may be created for similar purposes provided for in this resolution, as may be determined by a majority vote of the members of the committee herein provided for.

The expenses of the committee hereby created shall be paid out of the contingent expense fund of the Senate, the members to receive \$5.00 per day as compensation, and also the payment of such actual expenses as may be incurred in the work hereby authorized for them to per-

form. Said committee is hereby authorized to employ a secretary and a stenographer, to perform such duties as the committee may deem necessary in connection with the duties and work herein provided for. Said committee is hereby authorized to employ an auditor and expert accountant to perform such service as may be necessary in line with such work as the committee may determine is necessary.

All witnesses before the committee shall be paid the same fees provided for witnesses summoned in the district courts of this State and the committee shall have the right to summon witnesses, who shall be sworn by the chairman or any member of the committee. Said committee shall have full authority to issue all necessary process, summon witnesses and to compel their attendance and to give testimony and for the production before it of any paper, books or document; that all expenses shall be paid by warrants properly issued by the chairman of said committee.

Westbrook, McNealus, Decherd, Lattimore, Strickland, Suiter, Robbins, Smith, Alderdice, Collins, Buchanan of Bell, Johnson of Hall, Buchanan of Scurry, Floyd, Hopkins, Gibson, Dayton.

Senator Westbrook moved the substitution of the resolution.

The motion prevailed.

Senator Henderson offered the following amendments to the resolution as substituted:

(1) Amend the substitute by striking out the word "eleven" wherever it may appear and insert the word "two."

(2) In line 16, strike out the words "and its subcommittees" and add after the word "auditor" in the sixth line from the bottom the words "or auditors."

(3) Amend the substitute by striking out all after the word "report" in line 11 down to and including the word "determined" in line 16.

Pending.

By unanimous consent, amendment No. 1 was withdrawn.

Senator Henderson moved to postpone further consideration until the conclusion of the morning call next Monday.

The motion prevailed.

#### Message from the House.

Hall of the House of Representatives,  
Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 21, A bill to be entitled "An Act to amend Chapter 104 of the Acts of the Regular Session of the Thirty-fifth Legislature of the State of Texas, entitled an Act to create a more efficient road system for Newton County, Texas, etc., and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

#### Bill Read and Referred.

The Chair (President Pro Tem. Dean) had referred, after its caption had been read, the following House bill:

House Bill No. 21, referred to the Committee on Roads, Bridges and Ferries.

#### Message from the Governor.

Here Mr. S. Raymond Brooks appeared at the bar of the Senate with a message from the Governor.

The Chair directed the secretary to read the message, which was as follows:

Governor's Office,

Austin, Texas, Sept. 14, 1917.

To the Thirty-fifth Legislature in Third Called Session:

I submit for the consideration of your honorable body the following subject:

Enactment of a law to make an emergency appropriation to repair the North Texas Hospital buildings for the insane at Terrell, and to construct and equip a sewage disposal plant at said hospital.

Respectfully submitted,

W. P. HOBBY,

Acting Governor of Texas.

#### Adjournment.

At 4:30 o'clock p. m. Senator Clark moved that the Senate adjourn until 9 o'clock Monday morning.

The motion prevailed.

## APPENDIX.

## Enrolling Committee Report.

Committee, Room.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President Pro Tem, of the Senate.

Sir: Your Committee on Enrolled Bills beg leave to report that we have carefully compared Senate Bill No. 16, copy of which accompanies this report, and find the same correctly enrolled and have this day at 4 o'clock p. m. presented same to the Governor for his approval.

SMITH, Chairman.

## Committee Reports.

Senate Chamber.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 5, A bill to be entitled "An Act to amend Chapter 105 of the Acts of the Regular Session of the Twenty-ninth Legislature, which Chapter is entitled 'An Act to prevent the diversion of electric current, water or gas, from passing through any meter, and prevent any electric, water or gas meter by any means from registering the full amount of current of electricity, water or gas, that passes through it, and to prevent the diversion from any wire of electric current, water or gas, of any person, corporation or company engaged in the manufacture or distribution of electricity, water or gas, for lighting, power or other purposes; and to prevent the retaining of or refusing to deliver any meters, lamps or other appliances which may have been loaned or supplied for furnishing electricity, water or gas, a penalty for the violation thereof;' so amending said Chapter as to make the presence on or about such meters, wires and pipes, of any device for the diversion of electric current, water or gas, or for the prevention of the proper action, or registration of the meter, prima facie evidence of intention on the part of the user to defraud, within the scope of such Chapter and so amending said Act as to effect more fully the purpose there-

of, and to repeal all laws in conflict herewith."

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass.

Page, Chairman; Caldwell, Dayton, Westbrook, Hudspeth, Lattimore, Suiter, Collins, Strickland,

Senate Chamber.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean President Pro Tem, of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred

S. B. No. 19, A bill to be entitled "An Act to amend Sections 2 and 14 of the Special Road Laws of Coleman County, Texas, etc., and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass, and be not printed.

Caldwell, Chairman; Strickland, Buchanan of Scurry, Gibson, Floyd.

Senate Chamber.

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred Senate Bill No. 6, have had the same under consideration, and I am directed to report the same back to the Senate with the recommendation that it do not pass, but that the following committee substitute do pass:

## COMMITTEE SUBSTITUTE.

## A BILL

## To Be Entitled

An Act to further regulate the conducting of fish hatcheries and the propagation of fish in this State by amending Article 4000 of the Revised Civil Statutes of this State, 1911, as amended by Chapter 146 of the Acts of the Thirty-third Legislature, providing for the distribution by State fish hatcheries of fish to private persons, providing that the Game, Fish and Oyster Commissioner of the State of Texas, as well as the United States Commissioner of Fisheries, or their duly authorized agents, may take or catch brood

fish from the public fresh waters of this State, for the purpose of propagation; according to the United States Commissioner of Fisheries and his duly authorized agents the right to conduct fish hatching and fish culture and all operations connected therewith in any manner and at any time that may by them be considered necessary and proper; providing for a closed season on crappie and bass; prescribing the size of fish that may be taken; providing a penalty for the violation of this Statute, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 4000 of the Revised Civil Statutes of this State as amended by Chapter 146 of the Acts of the Regular Session of the Thirty-third Legislature be so amended as to hereafter read as follows:

Article 4000. It shall be the duty of the Game, Fish and Oyster Commissioner to collect the special tax imposed by this Chapter and enforce its payment, to inspect all products so taxed and verify the weights and measures thereof, to collect all license fees, to collect all rents on locations for planting oysters, to examine or have examined all streams, lakes or ponds when requested so to do for the purpose of stocking such waters with fish best suited to such location and he shall procure and furnish such stock fish from the nearest fishery and fish hatchery free of charge to any party or parties applying therefor. It shall be the duty of the Game, Fish and Oyster Commissioner to supply from the fish hatcheries and fisheries of this State free of charge to all parties applying therefor such number of fish for the purpose of stocking private lakes and ponds, or public waters, as may be available for distribution; provided, however, that the parties applying therefor shall pay all transportation charges on such fish and shall return to the hatchery or fishery all containers free of cost.

It shall be lawful for the Game, Fish and Oyster Commissioner of this State and his deputies to take at any time from the public fresh waters of this State all brood fish required by him in the operation of such hatcheries for the purpose of

propagation and culture. It shall also be lawful for the United States Commission or Fisheries and his duly authorized agents to take from the public fresh waters of this State all brood fish necessary in the operation of Federal fish hatcheries, provided that no other fish except brood fish shall be so taken for any purpose.

Sec. 2. Be it further enacted, that there is hereby accorded to the United States Commissioner of Fisheries and his duly authorized agents the right to conduct fish hatching and fish culture and all operations connected therewith at any time that may by them be considered necessary and proper, provided they conduct the same within the prescribed limits of the Federal fish hatcheries.

Sec. 3. It shall be unlawful for any person, firm or corporation or their agents to take, catch, seine, entrap by any means, or have in their possession any crappie or bass taken from any public fresh waters of this State from the first day of March to the first day of May of any year.

Sec. 4. If any person shall at any time catch or take from any public fresh water, river, lake, bayou, lagoon, creek, pond or other natural public artificial stream or pond of water within this State by use of any means whatsoever any trout or bass of less than six inches in length, he shall immediately return same back into such public water; and that unnecessary injuring of such fish shall be deemed an offense under the provisions of this Act; provided that each such fish shall constitute a separate offense.

Sec. 5. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not exceeding one hundred dollars.

Sec. 6. The fact that under the present law private parties are unable to obtain fish from the fish hatcheries of this State, and the further fact that the appropriation made by the Federal Congress for the establishment of fish hatcheries in this State will be withheld until assent is given by the Legislature of this State for the establishment of such hatcheries, creates an emergency and an imperative public necessity re-

quiring the constitutional rule that bills be read upon three several days in each house be suspended, and such rule is suspended, and that this Act be put upon its third reading and final passage and take effect and be in force from and after its passage, and it is so enacted.

PAGE, Chairman.

Committee Room,

Austin, Texas, Sept. 14, 1917.

Hon. W. L. Dean, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 17, A bill to be entitled "An Act validating the charters and amendments to charters of all cities of more than five thousand inhabitants, in this State, which have adopted charters, or attempted to adopt or amend charters, since the enactment of Chapter 147, General Laws of the Regular Session of the Thirty-third Legislature, 1913, and validating all proceedings had by city councils or city commissions, or governing authority, in regard to the question of the adoption of charters or amendments thereto; and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass and be not printed, but be printed in the Journal.

BEE, Acting Chairman.

By Bailey.

S. B. No. 17.

#### A BILL

To be entitled

An Act validating the charters and amendments to charters of all cities of more than five thousand inhabitants in this State, which have adopted charters, or attempted to adopt or amend charters, since the enactment of Chapter 147, General Laws of the Regular Session of the Thirty-third Legislature, 1913, and validating all proceedings had by city councils or city commissions, or governing authority, in regard to the question of the adoption of charters or amendments thereto; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That each charter, and

each amendment to a charter, adopted by any city of more than five thousand inhabitants in this State, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the Thirty-third Legislature, 1913 and all proceedings had with reference thereto, are hereby validated, and are hereby declared to be in full force and effect, the same as if adopted in strict compliance with the requirements of said Chapter 147, Acts of the Thirty-third Legislature, and this Act shall take effect and be in force from and after its passage.

Sec. 2. The fact that the Act of the Thirty-third Legislature authorizing cities of more than five thousand inhabitants to adopt and amend their own charters is a recent one and its provisions have not been construed by the courts and that many cities which have undertaken in good faith to incorporate and to adopt and amend their charters may not have complied strictly with all of its provisions and requirements, and that the acts, ordinances and bond issues of such cities may therefore be questioned, although made in good faith and authorized by a majority vote of the qualified voters of such cities, creates an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended, and said rule is suspended, and this Act shall take effect and be in force from and after the date of its passage; and it is so enacted.

#### TWELFTH DAY.

Senate Chamber,

Austin, Texas,

Monday, Sept. 17, 1917.

The Senate met at 9 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Dean.

By unanimous consent, and on request of Senator Johnson of Hall, the Senate stood at ease for thirty minutes, at the expiration of which time the roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.  
Bailey.  
Bee.

Buchanan of Bell.  
Buchanan of Scurry.  
Caldwell.